AN ARG[illegible]

upon a generall Demurrer joyned and entred in an Action of false Imprisonment in the Kings Bench Court *termino Trinitatis* 1631. *rot.* [illegible] *parte tertia*, betweene *George Huntley* Clerke plaintife, and [illegible] *Kingsley* Archdeacon of *Canterbury* and others Commissioners Defendants, as it was prepared to have beene uttered in Court by the said *George Huntley*, but was not permitted by the Judges of that Court, because, as they pretend, the said Action or Plea or Demurrer was discontinued termino Sancti Michaelis. 1632.

Published by the said *George Huntley* to shew whose duty it is to preach the visitation Sermon, and thereby principally to vindicate the auntient Iurisdiction of the Crowne over the State Ecclesiasticall against the usurpation and presumption of the High Commissioners whereunto hee is bound to the utmost of his power by the oath of supremacy, and secondly to cleare his own innocency, and to recover his former credit and good name much blemished by their scandalous and opprobrious sentences, whereunto he is tyed iure naturali.

A discovery also and confutation of the foresaid pretended discontinuance, with a true copy of so much of the two parts of the High Commissioners, first finall sentence, as is pleaded by the Defendants and as conteines the whole matter to justifie the said *Huntleys* nine yeares three quarters imprisonment at severall times, his five hundred pounds fine, deprivation degradation and excommunication. Both placed before the Argument, the one to remove the foresaid rub of the pretended discontinuance, and to open a faire and cleare passage for the Argument, the other to shew the state of the controversie and ground of the Argument out of the defendants owne words, against which the Law admitts no exception.

Dicere viva voce in curia per judices non permissus.
Dicere in scriptis ex prelo per juramentum cogor.

London, Printed for *George Huntley*, and are to be sold be *Michaell Sparkes* in *Green-harbour* in the *Little Old-baily*, 1642.

One Huntly, a Parson in Kent was required by ye Archdeacon of Canterbury, to Breach at a visitacion, he did it not: afterwards the Archdeacon by Letters required him to do it, and he did it not; for these Contempts, being Conveyed before ye High Comission Court, he was fined in a great sum, and Committed to prison, where he lay a long time, and being upon a Habeas Corpus brought to the Bar, ye Cause of his Committment was Returned viz. Default in his Canonical Obedience.) He was first bayld, and afterwards delivered, upon this Reason, because breach of Canonical obedience is an offence punishable by ye Ordinary, by Ecclesiasticall Censures; And not by ye Comissioners Ecclesiastical, by Fine & Imprisonment. Whitlocks Mem. 13.

Huntley brought an action of false Imprisonment agt. ye Gaoler and and some of ye Comissioners by name. The Attorney Genl. by ye Ks. Command moved yt. ye Comissioners might be spared & upon debate at last it was ordered yt. only 2 of ye Comissioners should anse. The Ks. sent a message by his Advocate Dr. Rives to Require yt. there should be no farther proceedings in ye Cause till he had spoken with ye ~~[illegible]~~ Chief Justice. ye Judges held yt. all message relating to ye Course of Justice ought to be brought by ye Keeper or ye Attorney Genl. Whitlock held this message wholly Illegall. at length ye Ks. Expressly Commanded yt. ye Comissioners should not be put to anse. ye Judges Answered yt. they could not without breach of their oaths before yt. Command. and so they parted in Displeasure ~~[illegible]~~. afterwards by ye Ks. special Command this matter was debated at ye Council table, and after long debate, it was agreed ye Comissioners should anse. Whitlocks Mem: p: 15.

The discovery and confutation of the foresaid pretended discontinuance.

THe true cause of the pretended discontinuance mentioned by Master *Noy*, Attorny Generall in his motion *Termino Michaelis* 1632. was this; That the Plaintiffe *Huntley*, beganne his Action by originall, and drew up the imparliances by Bill, and so had discontinued his Action by originall in drawing up the imparliances by bill, and had not begun any action by bill, and so had no Action at all either by bill or originall depending in Court against the Defendants: thereupon the Court granted the order following.

Dies Sabbati prox. post Crastinum Animar. Anno octavo Car. Reg.

Huntley verſ. Kingſley & alios. { *Niſi cauſa oſtenſa fuerit in contr. die Iovis prox. post Craſtin. ſancti Martini actio Diſcontinuetur ex motione Attorn. Gralis.* *per curiam.*

I presently got a copy of the foresaid order but I could not get my Counsell to shew cause to the contrary within the time limited in the Order, neither was I permitted within that time to shew cause to the contrary my selfe and thereupon the Defendants Attorney Mr. *Barker* entred upon the foresaid Rolle the following discontinuance in these words.

Recordatur per curiam 27. die Novem. Anno Reg. Dmini Regis nunc Angliæ 8° quod iſtud placitum non habet Deum continuationis per iſtud rotulum ultra non poſt predict. Octab. ſancti Michaelis. Ideo placitum illud ad requiſitionem predcti Georgij Huntley diſcontinuatur.

The foresaid discontinuance entred upon the said roll is neither grounded upon the pretended cause of discontinuance mentioned in the Attorney, *Gralls* motion, nor upon the foresaid Order of the Court, but onely on my request, and I was so farre from requesting any such thing, that I offered 40 pound, nay 100 pound to have the foresaid error reformed. And the foresaid Order mentions no error,

or cause of discontinuance but onely supposeth one, and what can it suppose, but onely that, which Master Attorney Generall mentioned in his foresaid motion? and that's onely this because I begun my said Action by originall, and drew up the imparliances by bill in these words, *Petunt licentiam judic ulterius interloquendi ad billam predictam*, and this I doe sixe times mention in the plea, for so many Termes the Judges gave the defendants to put in their Plea; and that being onely an error in forme and not specially and particularly set downe and expressed by the parties demurring together with their demurrer (as appeares by the said Record rolle and the originall paper booke under both our Counsells hands, which I have to shew) cannot discontinue the Action. Plea or Demurrer, nor hinder the hearing of the cause, nor bee the ground of a writt of error nether suspend nor reverse a Judgement, but is to reformed and amended by the Judges even after demurrer joyn'd and entred as appeares by the 5. chapter of the 27. of *Eliz.* which runnes thus:

Bee it enacted by the Queenes most excellent Majestie &c. That from henceforth after Demurrer joyned and entred in any action or suit in any Court of Record within this Realme the Judges shall proceede and give judgement according as the very right of the cause and matter in Law shall appeare unto them, without regarding any imperfection, defect or want of forme in any writt, returne, plaint, declaration, or other pleading processe, or course of proceeding whatsoever, except those only, which the party demurring shall specially & particularly set downe and expresse together with his Demurrer. And that no judgement to be given shall be reversed by any writt of error, for any such imperfection, defect or want of forme, as is aforesaid, except such onely as is before expressed.

And bee it further enacted, that after Demurrer joyn'd and entred, the Court where the same shall bee, shall and may by vertue of this Act from to time amend all & every such imperfections, defects and wants of forme, as is before mentioned, other then those onely which the party demurring shall specially and particularly expresse and set downe together with his Demurrer, as is aforesaid.

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A true Copy of so much of the two parts of the High Commissioners, first finall sentence as it is pleaded by the Defendants Doctor *Kingsley* and the rest followes.

AND upon opening of the cause, the foresaid *George Archbishop* of *Cant*, *Richard* of *Durham* *Iohn* of *Rochester*, *Thomas* of *Coventrey* and *Lichfield* *Theophilus* of *Landaffe*. *Robert* of *Bristoll* Bishopps. and some other of the Commissioners aforesaid, found the aforesaid *George Huntley*, especially charged in the Articles with two perticulars. first for refusing to Preach a Uisitation Sermon at the requisition and command of the Archdeacon of the Diocesse contrary to his Canonicall obedience; and secondly for setting up an opinion and maintaining it before the rest of the Clergie of the Diocesse, that the Archdeacon of the Diocesse had no power to require or command him or any other Minister to preach a Sermon at his Uisitation, with many other abusive behaviours about that matter, it now appeared, that the said Mr. *Huntley* in the moneths and yeares articulate, especially since the 27 of *March* 1625. had beene by the said Mr. Archdeacon divers times willed or required to Preach a Uisitation Sermon, and had time sufficient to provide himselfe, that Mr. *Huntley* without all due respect of Mr. Archdeacon, or the canonicall obedience, hee ought unto him with words of scorne and contempt, refused to performe that duty, as was justified out of his owne answers, both in words and writing, that Mr. Doctor *Kingsley* hereupon appealed to the Lord Archbishop of Cant. his Grace, (who is immediate Ordinarie and Metropolitane to them both) for redresse herein, that his Grace upon notice thereof, wrote a particular letter to said Mr. *Huntley*, the true copy whereof after the originall shewed to Mr. *Huntley*, was left with him) and therein advised and required Mr. *Huntley* to prepare himselfe to preach a Uisitation Sermon he having time enough given him to prepare himselfe for that purpose, which commandement of his Grace, the said Mr. *Huntley* slighted and utterly refused to performe that duty, and not desisting after such refusall, came unsent for, or uncalled for to Mr. Archdeacon aforesaid being in his Uisitation amongst the Clergie, and sitting there to heare causes & very malepartly and unreverently charged him, the said Mr. Archdeacon of falsehood or injustice and in a very arrogant and irrespective manner, laid downe an hundred pounds in gold upon the table, and offered to

lay wagers with him the said Mr. Docter *Kingsley* the Archdeacon, that he had done him the said *Huntley* wrong, or the like in effect, without any due respect of the said Archdeacon his person or place, and to the encouragement of other refractary persons, as was there also proved to the Court, for which his grosse abuses and contempts, the Court held him well worthy to be punished, and so much the rather, because the court was of opinion and so pronounced, that the said Mr. *Huntley* was by the Lords Grace of Cant. his Ordinary & the Archdeacon aforesaid injoyned to doe no more, then what by Law and custome according to his canonicall obedience, hee was tyed to performe, yet nevertheless the court at this time reserving to themselves their further censure, as occasion should be offered, for the present only ordered him the said Mr. *Huntley* upon the commandment of the Archdeacon of *Cant.* upon a competent warning to bee given him, to Preach a Sermon at the next Visitation to be holden by Mr. Archdeacon of *Cant.* and afterwards before the Clergy in the said Visitation to acknowledge his fault in *conceptis verbis*, as shall be prescribed by any three or two of the Commissioners Judges of the Court, unto whom it is now referred to set down the same, & he is juditially admonished, and required to appeare here personally in this place, the second court day of the next tearme, to certifie of his due performance thereof accordingly, whereupon afterwards namely, one the 19. of *Aprill Anno Dom.* 1627. at *Westminster* aforesaid, in the County of *Middlesex* aforesaid, the aforesaid *George Huntley* then and there, being publikely called, appeared personally. And being then & there by the foresaid most Reverend father in Christ & Lord, the Lord *George* by Divine providence Archbishop of *Cant.* primate of all *England*, and Metropolitane: *Richard* of *Durham* *John* of *Rochester*, *Lewis* of *Bangor*, *Thomas* of *Coventry* and *Lichfield*, *William* of *Bath* and *Welles*, *Theophilus* of *Landaffe*, *Robert* of *Bristoll*, respectively Bishops, *Dudley Digges*, and *Henry Marten* Knights, *John Downe*, *Walter Balcanqnall*, *William Kingsley*, *Thomas Worrall*, professors of Divinity, *Edmond Pope*, *Hugh Barker*, Doctors of Law, Commissioners aforesaid, demaunded whether hee the said *George* had performed the foresaid order, made the foresaid eigth day of *February*, *Ann. Dom.* 1626. foresaid, as is aforesaid or no, to wit, whether he had Preached his Visitation Sermon according to the requisition and command of the foresaid Archdeacon of *Cant.* and made his submission *conceptis verbis* before the Clergie, as was injoyned him by the foresaid Court of high Commission aforesaid;

ſaid; he the ſaid *George Huntley*, then and there acknowledged that he had done neither, and then and there alleaged frivolous matter in excuſe thereof, to witt, that Mr. Archdeacon aforeſaid had not warned him by a lawfull proceſſe to Preach. But it appeared to the ſaid Court of high Commiſſion by affidavit made, that the foreſaid Maſter Archdeacon had given him ſufficient warning by a publike officer and a competent time to provide himſelfe, to Preach a Viſitation Sermon, and he being a man ſufficiently qualified, by his gifts of learning for that purpoſe, not withſtanding contemptuouſly refuſed to performe his duty therein, and alſo that he the ſaid *George Huntley* refuſed to performe his ſubmiſſion *conceptis verbis*, as was enjoyned unto him: The ſaid Court of High Commiſſion *unanimi conſenſu* pronounced him guilty of a great affront and contempt, not onely to the ſaid Mr. Archdeacon, and the Lord Archbiſhop of *Cant.* primate of all *England*, and metropolitane and his the ſaid *Huntleys* immediate Ordinary, unto whom the ſaid Huntley is tyed by oath, to performe canonicall obedience, but alſo againſt his Majeſties ſupreame power and authority in matters and cauſes Eccleſiaſticall, and this Court, unto whom the ſame by Letters Patents under the great Seale of *England* is delegated and committed, and therefore the ſaid Court of high Commiſſion held the ſaid *George* worthie to be puniſhed and firſt fined him in five hundred pounds to his Majeſties uſe, & committed him to the new priſon (namely to the cuſtody of *Brian Wilton*, then warden of the new priſon) and there ordered him to remaine, untill he ſhall give ſufficient bond with ſuerties in a competent ſumme to his Majeſtie uſe, aſwell for the payment of his fine, as it ſhall bee mitigated as for the performance of his ſubmiſſion heretofore enjoyned him, &c.

Now theſe two parts of the High Commiſſioners firſt finall ſentence, containe the whole originall matter, for which alone the High Commiſſioners aforeſaid did fine me five hundred pounds and impriſoned me on the 19 day of Aprill 1627. and kept me in priſon two whole yeares; And for which alone without any other crime or fault afterward objected againſt mee in any new articles, or in any additionalls or ſuperadditionalles to the firſt articles, the Commiſſioners did on the 25 day of *Iune*, 1629. by a ſentence, wherin they charge me with grievous and enormous crimes, exceſſes and delicts mentioned in the foreſaid articles, (in which articles there is never a crime charged upon me) deprive and degrade me, and thereupon kept me a priſoner untill the 10 day of *May* 1633. And for which alone, on their

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laſt court day in Hilarie Terme 1630. they did excommunicate mee, becauſe I would not deliver up my orders *diaconatus & presbyteratus*. And for which alone, yet neither certified into the Exchequer by the h High Commiſſioners together with the fine aforeſaid, nor legally ſeene nor underſtood by the Barons of the Exchequer, my Lord chiefe Baron ſir *Humphrey Daverport* and the other Barons of the Exchequer refuſing to grant mee a certiorarj to the High Commiſsion Court to command them to certifie the cauſe & to permit mee to pleade to the foreſaid fine, did the 10. of May 1633. commit me to the Fleet in execution of the foreſaid fine, & there detained me a full yeare, untill I to procure my liberty, paid the fourth part of the ſaid fine to Mr. *Moterſhed pecunijs numeratis*, and ſtal'd the other three parts to the Kings uſe. And for which, and alſo for a Petition delivered at the Counſell Table to crave juſtice therein according to his Majeſties mandate, under ſir *Edward Powels* hand to my Lord chiefe Juſtice, ſir *John Bramſton* and the other Judges of the Kings Bench court, dated the 29. of *December* 1635. and delivered with mine owne hand to the ſaid Judges in open Court the firſt day of Hilary Tearme 1635. I was by my moſt reverend Diocefan and provinciall *William* Lord Archbiſhop of *Cant.* his Grace, and other right Honorable Lords of his Majeſties moſt honorable privie Councell, on the third day of *February* 1636. committed to cuſtodie of the Warden of the Fleet, by a warrant wherein no cauſe of ſo imprisonment was expreſt, and there detain'd a priſoner by him, untill Trinity Tearme 1639. and then upon an *habeas corpus* iſſuing out of the Kings Bench Court I was brought to that court in Trinity Tearme 1639. and the foreſaid warrant for my commitment returned and then I was preſently bayled, and thereby tyed to appeare in court divers daies, both that Tearme and the Tearme thence next following, and becauſe none of the Kings Counſell in all that time came in againſt me, I was on the laſt day of that Michaelmas Tearme 1639. delivered from the ſaid baile and impriſonment, by the joynt conſent of all the Reverend Judges then of that court. As I formerly had beene in the ſame court, *Termino paſchæ* 1629. after the firſt two yeares impriſonment upon the foreſaid originall matter, returned to an *habeas*, and fully debated by Counſell on both ſides and Mr Juſtice *Bertley* then the Kings Sergeant in open court profeſſing himſelfe fully ſatisfied. And for the former originall matter onely, may for nothing at all in the judgement of the Law, even for the foreſaid ſentence of deprivation and degradation, charging mee with grievous and enormous

crimes

crimes excesses & delicts mentioned in the said Articles and those Articles not given in evidence, nor found by the Jury in the speciall verdict betweene *Allen* and *Nash*, entred upon record in the Kings Bench court *termino Sancti michaelis* 8. *Car. rot.* 508. my Lord chiefe Justice of that court, sir *John Bramston* did for himselfe and his brethren *Termino Trinitatis* 1637. affirme the foresaid sentence, and deliver his opinion against me for the intruder *Robert Carter*.

Whence it followeth that if the Commissioners aforesaid first finall sentence against me & the 500 pounds fine thereby imposed upon me, & the two yeares imprisonment thereby sustained by me be just & legall, then all the other sentences, censures and punishments following and depending thereupon, may be just and legall: But if the former the only ground of all the rest, be unjust and illegall, then all the other must of necessity be unjust and illegall.

And whether the former be just or unjust, let the indifferent reader judge impatially, upon the perusall of the following argument.

MY Honoured Lord cheife Iustice, and my Honored Iudges, the first thing in this Controversie, concerning the points of the Canon law in question, whereunto cheifly I am to speake, is the very stating of the controversie it selfe between me & my adversaries; And for that purpose in the first place I humbly desire your Lordship & the Court to observe, that the defendants charge me with faults of severall degrees, some principall and especiall, others inferiour and accessory.

The Principall and Especiall are two, as appeares by their first finall sentence alleaged in their plea, wherein they say, that upon the opening of the cause, they found the aforesaid *George Huntley* charged in the said Articles, with these two perticulers principally (a) or especially, first that he refused to preach a visitation sermon at the Arch-deacons of *Cant. Doctor Kingsleys* command contrary to his Canonicall obedience, and secondly that he raised an opinion amongst the Clergy, that the said Arch-deacon had no power to

(a) This word specialiter, in this sence is 3. times used in the defendants plea, twice in the first part of their first finall sentence, and once in the Commission, & of 14. Articles obiected against me, 12. doe expressly mention my refusall to Preach the Visitation sermon, as a fault, or prepare the way thereunto; and the fourth saith that I offered two or three peeces to the Arch-deacon, to procure one to preach that sermon, only the sixth and thirteenth Articles doe not mention it.

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command him the ſaid Huntley or any other incumbent to preach the ſaid viſitation Sermon.

The Inferiours or Acceſſories are foure; firſt that the ſaid Huntley came unſent for, or uncal'd for to Maſter Arch-deacon aforeſaid, he being in his viſitation amongſt the Clergie, and ſitting there to heare cauſes; Secondly that the ſaid Huntley did then and there very malepertly and irreverently charge the ſaid Arch-deacon of falſehood or injuſtice, thirdly that the ſaid Huntley did at the ſame time and place in a very arrogant & irreſpective manner, lay downe an hundred pounds in Gold upon the table and offered to lay wagers with him the ſaid arch-deacon, that he had done him the ſaid Huntley wrong or the like in effect: and fourthly and laſtly that the ſaid Huntley refuſed to performe his ſubmiſſion *conceptis verbis* as was enioyned him by the Commiſſioners, and therein gave a great affront and contempt both againſt his Maieſties ſupreame power and authority, in matters and cauſes Eccleſiaſticall, and alſo againſt the high commiſſion court, to whom the ſame by letters patents under the great ſeale of England is delegated and committed.

And for theſe ſix particulers, the defendants confeſſe, that they impriſon'd me two yeares, namely from the nineteenth day of *Aprill* 1627. to *Aprill* 1629. In which moneth upon my appearance in this court the firſt day of that *Eaſter Terme* 1629. to ſave my baile, you Maſter Iuſtice *Heath*, then the Kings Attourney Generall were firſt call'd for by the Court in the Kings behalfe againſt me, and you came and confeſt, that you had nothing to ſay againſt me, and then Maſter Iuſtice *Bertley* being then the Kings Sergeant, whoſe (*b*) abſence I much lament, whoſe preſence I much deſire, was called for by the court for the ſame purpoſe againſt mee, and hee came and confeſt, that he had formerly ſpoken twice againſt mee upon the matter return'd to the *habeas corpus* (which was the very ſame for ſubſtance, that is now pleaded againſt mee) and hee then further added, that he was now ſatisfied, he had no more to ſay againſt me; and yet the court would not upon that day deliver me, but ordered mee to make my appearance in court two ſeverall dayes after that, and then when no man came in againſt mee, I was on 29. day of that moneth of *Aprill* 1629. delivered by the joynt conſent of all the reverend Iudges, then of this court, and therein, (I ſpeake it with ſinguler exultation) I received as much favour as a Rogue at Newgate, who when no man comes in

(*b*) Maſter Iuſtice Bertley at this time was in the cuſtody of the Sheritie of London.

in against him, is acquitted by Proclamation, which is the moſt that I could ever get ſince, except it were greater injuries and indignities, I ſpeake it with much greife, and lamentation.

Now my Lord the two principall, and eſpeciall pretended faults againſt mee, will deſcide the whole controverſie betweene me and my adverſaries, and either juſtifie them, and condemne mee, or elſe condemne them, and juſtifie me, for if the defendants can make good theſe two Principall or Eſpeciall pretended faults againſt me, that my refuſall to Preach the Arch-deacons viſitation Sermon is a breach of Canonicall obedience, and that I in maintaining it to be the Arch-deacons duely to Preach his owne viſitation Sermon, have raiſed among the Clergy a new opinion contrary to the Canons, then I ſhall confeſſe my ſelfe faulty in all the reſt, and juſtly fin'd, impriſon'd, depriv'd degraded and excommunicated. But if the defendants faile in theſe two points, being by their owne Teſtimony, the two Principall and eſpeciall points againſt mee, then they faile and fall in all the reſt, for according to their law; *Si principalis cauſa non ſubſiſtat, ea quæ ſequuntur, locum non habent.* And then your Lordſhip and the court, are not to give credit unto the defendants in any other part of their plea, that makes either for them or againſt mee, for *qui ſemel eſt malus, ſemper, preſumitur malus in eodem genere mali,* and *qui ſemel veritatis & verecundiæ limites tranſilierit, eum oportet eſſe quaviter impudentem, nec ei deinceps niſi panitenti, culpam confitenti, & veniam exp:tenti, eſt in aliquo credendum.* And therefore if the defendants haue wittingly, and willingly, palpably and groſſely falſified the law in the principals, Your Lordſhip and the court are not to give credit unto them in the acceſſories. If in the principalls they have called my obedience to the word of God, to the Articles, Statutes, Canons, to his Maieſties Letters Patents, royall Prerogative and oath of ſupremacy (which are all extant to the veiw of the world) a breach of Canonicall obedience, a principall or eſpeciall fault, a greivous and enormous crime, what credit is to be given unto them concerning any fact, they charge me with in the Acceſſories, ſeing therein they may ſpeak falſe ſecurely, and not be confuted by any law, as in the former? And ſo my Lord, having ſtated the controverſie betweene me and my adverſaries concerning the points of the Canon law in difference betweene us, I proceed to ſpeak to the controverſie thus ſtated, and firſt to the principalls.

My Honoured Lord cheife justice, and my Honoured Judges, my refusall to Preach the Archdeacon of *Cant.* Doctor *Kingsleys* Visitation Sermon, and the publishing of an opinion amongst the Clergy, that the said Arch-deacon had no power to command mee or any other incumbent to preach the said visitation Sermon are the two maine and Capitall crimes, for which I have beene imprisoned these two yeares 1627. and 28. by the defendants Doctor *Kingsley* and the rest.

This appeares out of the High Commission sentence alleaged in the defendants plea, put in to my Declaration, for therein they say, that upon the opening of the cause, they found me charged in the said articles with these two particulers principally or especially, first that I refused to Preach a Visitation Sermon at the Arch-deacons command contrary to my canonicall obedience, and secondly that I set up an opinion amongst the Clergy, that the said Arch-deacon had no power to command me or any other incumbent to Preach the said Visitation Sermon.

Now my Lord, if these two be my Principall or Especiall faults, as the defendants themselves confesse they are, *& testimonium ab adversario contra se fortissimum*, then by the force of comparison drawn from the adversaries owne estimate, all the other must needs be inferiour and accessory, and then if the Principall or Especiall faults prove no just causes of imprisonement nay further prove no faults at all nay further yet, prove vertues and eminent vertues even the vertues of canonicall obedience, much lesse can the inferiours or accessories be any faults or any just causes of imprisonement. for according to their owne law, *accessorium debet sequi naturam principalis, & si principalis causa non subsistat ea quæ sequuntur locum non habent.*

Now my Lord these two Principall or Especiall faults pretended against me, doe beget two Principall or Especiall questions, the one of practise and action, and it is this; whether my refusall to preach the Arch-deacons Visitation Sermon be a breach of Canonicall obedience, or not? the other of Speculation and Opinion, and it is this; whether this my opinion that the Archdeacon hath no power to command me or any other incumbent to Preach his Visitation Sermon, be held and published contrary to the Canons, or not? And these two questions are so linked together that they do *invicem se ponere & auferre* & are to be both, either joyntly affirmed or joyntly denied, for if my refusall to Preach the Arch-deacons Visitation Sermon, be a breach of Canonicall obedience, then this my opinion, that the Arch-deacon hath no

power

power to command mee or any other incumbent to Preach his Uiſitation ſermon muſt of neceſſity be held & publiſhed contrary to the Canons. And on the contrary, if this my refuſall to preach the arch-deacons Uiſitation Sermon, be no breach of Canonicall obedience, then this my opinion that the arch-deacon hath no power to command me or any other incumbent to preach his Uiſitation Sermon, is neither held nor publiſhed contrary to the Canons: ſo that handle one, handle both, cleere one, cleere both, and faile in one, faile in both.

And this firſt Principall or Eſpociall queſtion of practiſe and action, whether my refuſall to preach the Arch-deacons Uiſitation Sermon be a breach of Canonicall obedience, or not? Doth either way, that is, whether it be or be not, beget another queſtion, If it be a breach of Canonicall obedience, then it begets this queſtion; whether for the breach of a Canon, or of Canonicall obedience unto the Canons, according to the lawes and cuſtomes of this land, men are to be fetcht from the judgement and juriſdiction of the ordinary up to the High Commiſſion Court, and there to be fined and impriſoned for it, or elſe whether they are to be left to the judgement and juriſdiction of the ordinary, and he to proceed againſt them according to the power of the keies?

And though my Lord, this queſtion be no queſtion, if the high Commiſſioners by the firſt of the firſt of *Elizabeth*, never had any power to fine or impriſon for any crime within that ſtatute, and the cogniſance of the high Commiſſion, as is declared by a ſtatute made the firſt Seſſion of this Parliament, which ſtatute makes wholely for me, and againſt the high Commiſſioners, and puts the former queſtion out of queſtion: yet my Lord in favour of the high Commiſſioners, and to my owne diſadvantage, I doe forbeare to take the benefit and advantage of the former ſtatute and Declaration, and granting to the high Commiſſioners a power to fine and impriſon for crimes, within the firſt of the firſt of *Elizabeth*, according to the Commiſſioners practiſe before, and at the time of my cenſure, according to the wordes of their commiſſion, and the approbation both of the Exchequer, who did impriſon me for the 500. pounds fine eſtreated by the high Commiſſioners into the Exchequer, and of this Court alſo, which would not upon an *habeas corpus* deliver me from that impriſonement: I doe in the ſence and reſpect only, propoſe the former queſtion, whether for the breach of a Canon or Canonicall obedience unto the canons,

according to the lawes and cuſtomes of this land, men are to be fetcht from the judgement and juriſdiction of the ordinary, up to the high commiſſion court, and there to be fined and impriſoned, or elſe whether they are to be left to the judgement and juriſdiction of the ordinary, and he to proceed againſt them, according to the power of the keys.

And though this queſtion my Lord, bee within the compaſſe and coguiſance of the common Law, and therefore ought to bee ſpoken unto by the worthy profeſſors of this Honorab. profeſſion; yet ſeeing it is in defence of the Epiſcopall or ordinary juriſdiction, which the Biſhops themſelves have wrong'd, and which at this time in this my caſe no common Lawyer will undertake to defend, and that for this very reaſon as I conceive, becauſe they have mens perſons in admiration for advantage ſake, as St. *Iude* ſpeakes, and do prefer the perſon of ſome Biſhop before and above the Epiſcopall or Ordinary juriſdicton it ſelf. Therfore *ut nequid detrementi capiat reſpublica Epiſcopalis vel ordinaria*, and to the intent that all men may know, that I both truely love and reverence the Epiſcopall or Ordinary juriſdiction, not onely above and beyond you the common Lawyers, who will not according to your profeſſion defend it, but alſo above and beyond thoſe Biſhops who contrary to their callings have wrong'd it, and alſo that I onely oppoſe the uſurpation and preſumption of ſome Biſhops and not the Epiſcopall or ordinary juriſdiction it ſelfe, I will endeavour to ſhew and that by ſeven reaſons, that the breaches of canons or of canonicall obedience unto the canons according to the Lawes & cuſtome of this land belong to the juridiction of the ordinary, and not to the cogniſance of the High commiſſion court.

Epiſt. 16.

Theſis prima ſeptem rationibus confirmata.

My firſt reaſon, my Lord, is taken from the ſence and meaning of this word Ordinary, as it is expreſſed by Doctor *Lyndewode* in the firſt booke of his *Prov. tit. de conſtitut. cap. Exterior habitus. Verbo Ordinarij*, in theſe very words. *Nota quod hæc dictio (c) Ordinarius principaliter habet locum de Epiſcopo. & aliis ſuperioribus, qui ſunt univerſales in ſuis iuriſdictionibus. & de iure communi ſolus Epiſcopus eſt ordinarius ſuper omnes ſubditos ſuos, ſed ſunt ſub eo alij ordinarii, hi vid. quibus competit iuriſdictio ordinaria de iure, privilegio, vel conſuetudine.* By which words my Lord, it appeares, though there be ſome other ſubordinate, & inferiour ordinaries under the Biſhop in ſome parts of his Dioceſſe, who have and hold under him in thoſe parts an ordinary juriſdiction either

Ratio. prima.

(c) Ordinarius dicitur, quia habet ordinariam iuriſdictionem in iure proprio, & non per deputationem Cokevinſtitutes. f. 96.

either *iure, privilegio, vel consuetudine*: yet *de iure communi*, over the whole Dioceſſe, the Biſhop only is Ordinary, and onely hath a generall and an univerſall juriſdiction.

And this generall juriſdiction of the ordinary or Biſhop extends not to all cauſes both Temporall and Eccleſiaſticall, but only to all cauſes meerely Spirituall, ſo called not in reſpect of their owne nature, but becauſe they are aſſign'd to the Spirituall or Eccleſiaſticall juriſdiction. And thoſe are of two ſorts, either civill Eccleſiaſticall cauſes, as Tithes, Oblations, Legacies Pentions, and portions, or elſe criminall cauſes, and both theſe belong to the generall juriſdiction of the Ordinary, for the former it appeares principally in two *cap. of Lyndewodes Provinc.* and that in the very text. firſt in his ſecond booke *tit. de foro competenti. cap. circumſpecte agatis*, which though it be King *Edw.* 1. direction to his Judges or Juſtices or Coumiſſioners concerning the Biſhop of *Norwich* and other of the Clergy, and bee extant among the Statutes 13. *Edw.* 1. yet ſeeing it treates of the ſpirituall juriſdiction of Ordinaries, it is ſet downe by *Lyndewode* among the provinciall conſtitutions of our Archbiſhops of *Cant.* Secondly, in his 5. booke *tit. de pœnis. cap. eterna Sanctio voluntatis.*

And for the latter, namely criminall cauſes, it appeares both in the two chapters before alleaged, and more eſpecially in the firſt booke of *Lyndewodes Provinc. tit. de conſtitutionib. c. exterior habitus. ver. Inquirant.* upon which word *Lyndewode* ſhewes, that there is *triplex inquiſitio. generaliſsima. generalis & ſpecialis vel ſingularis.* and each of theſe is twofold, either *præparatoria* or *Solemnis. præparatoria eſt ſine exactione juramenti, ſolemnis eſt cum juramento*, and the one of theſe makes way and worke for the other. The preparatory inquiſition findes out and ſtarts the game, and the ſolemne inquiſition perſues and takes it.

And the moſt generall inquiſition both preparatory and ſolemne belongs to a generall councell or to a provinciall Synode; but the inquiſition generall and ſpeciall both preparatory and ſolemne belongs to the juriſdiction of the Ordinary. And this generall inquiſition hath three degrees; for it is generall either in reſpect both of perſons and of crimes: or it is generall onely in reſpect of perſons, and ſpeciall or ſingular in reſpect of crimes or laſtly it is generall in reſpect of crimes, and ſpeciall or ſingular in reſpect of perſons, as the Ordinary ſhall thinke fit, and the matter require.

Now my Lord, the High Commiſſion hath nothing to doe with the firſt of theſe cauſes, namely civill Eccleſiaſticall cauſes: no nor

a generall

a generall jurisdiction in the latter, namely criminall causes, and both these are evident by divers judgements at the common Law.

Hilary. 8. *Jacobi*. In the common Pleas in the case of *Huntley* and *Clifford* it was resolved, that the High Commission had not power to meddle with civill Ecclesiasticall causes, and therefore none might sue before them for Tythes, Legacies, Oblations Pentions or Portions. First because this would bee a meanes to take away all Ecclesiasticall proceedings from the Ordinary. Secondly, because their sentences and Decrees are finall, and no appeale lieth from them, so that it might be very mischeivous, if they should hold plea of all manner of Ecclesiasticall causes. Thirdly, because the first of *Elizabeth* giveth them power only in enormities. 1. in hainous, horrible and exorbitant crimes.

In the Exchequer in *Ailemers* case, it was resolved that the High Commission might not meddle to punish one for working upon holy dayes, & 44 *Eliz. rot.* 1255. in the Common Pleas in the case of *Tailer* and *Masse*, a prohibition was granted, where one was convented before the high Commission for giving irreverend speeches of a Minister for carrying his corne on holydaies, and for not suffering the Parson and parishioners to goe through his yard upon Rogation weeke, and for not giving them a repast in the perambulation, as hee had used to doe, and for whistling and knocking upon the doore of the parson, and saying, hee did it to make the parson musick for the marriage of his Daughter, for this ought to be before the Diocesan.

But my Lord there is one case at the common Law, which I more esteeme than the three former, because in this very point it conteines not only the resolution of all the reverend Judges then of this Court, but also a reall confession of the High Commissioners themselves my very adversaries, and that's this mine owne case: for the high Commissioners did at first *Paschæ* 1627. committ me to prison for breach of canonicall obedience in refusing to Preach the Archdeacons Visitation Sermon, & after two yeares imprisonment, when upon an *habeas corpus*, I was set at liberty by the court *paschæ* 1629. because that matter was *coram non judice*: then *trinitatis* 1629 in their second finall sentence upon the same Articles, wherein there is no crime objected against mee, they charge me with grievous and enormous crimes mentioned in the Articles, that so they might make the matter *coram judice*, and within the cognisance of the High Commission. So that by the

the canon and common Law and by the reall confession of my very adversaries, the breaches of Canons or of Canonicall obedience unto the Canons belongs to the Jurisdiction of the Ordinary, and onely grievous and enormous crimes to the cognisance of the High Commission court.

My 2. reason my Lord is taken from the custome & practise over *England*, for it is the generall custome & uniforme practise over all *Engl.* for the Church wardens to make their presentments at the Ordinary or episcopall jurisdiction,& not at the High Commission Court,& therfore the breaches of Canons, or of canonicall obedience unto the canons belongs to the jurisdiction of the Ordinary,& not to the cognisance of the high commission court. And this reason being the generall custome & uniforme practise over all *England* time out of minde both of all the Church-wardens in making their presentments,& of all the ordinaries in receiving them is the Common Law of the Land & being in use none. *Hen.* 3. is confirmed by the 1. chap. of *Magna Charta* under the name of the Rights & Libertes of the Church, for as *Lyndewode* in the fifth booke of his *provinc. lit. de sententia ex communicationis.c.p. cum sapins. verbis Ecclesiastica libertatis.* Saith *Ecclesiastica libertas inter cetera consistit in libero exercitio Jurisdictionis Ecclesiastica.* And this custome & Ecclesiasticall liberty & jurisdiction hath lately been cleer'd by the resolution of all the reverend Judges then of the 3. Honorable Courts of Common Law as appeares by his Majesties Proclamation dated at *Lyndhurst* 18. *August.* 13. *Caroli.* wherein they affirme that the Bishops Archdeacons & other Ecclesiasticall persons may keepe their visitations as usually they have done, & then they may receive all presentations from the churc-wardens as usually they have done & then they now have a generall jurisdiction as formerly they have had. And this their resolution is fully warranted by the fift proviso of the 2. cha. of the 1. of *Eliz.* for that proviso and paragraph gives power to all Archbishops Bishops & to every of their Chancellours Commissaries Archdeacons and other ordinaries,aswell to inquire in their visitations synods, and elsewhere within their jurisdiction at any other time and place, to take accusations and informations of all and every the things above mentioned done committed or perpetrated within the limits of their jurisdictions & authority & to punish the same by admonition, excommunication, sequestration or deprivation & other censures and processe inlike forme as hath heretofore been used in like cases, that is cases of Ecclsiasticall cognisance by the Queenes Ecclesiasticall lawes, not by a commission,as some would have it,but by the Queenes Ecclesiasticall

Ratio. 2.

call lawes. Which last words doe approve of such a jurisdiction, as the ordinaries at that time did exercise according to the Ecclesiasticall lawes of the land, & at that time & both before and since that time the Ordinaries did & do exercise a generall jurisdiction according to the Ecclesiasticall lawes of the land, without a commission as appeares upon record in their owne Courts & the Canons & Ecclesiasticall lawes of the land doe approve of that generall jurisdiction of the Ordinaries, as appeares by the body both of *Lyndewodes* provinciall, & of the legantine constitutions of *Otho* and *Othobon*, and also by tenne of our last Canons made *primo Iacobi*, namely by the 109. to the 119. so that in this second reason the Common and Canon and Statute Law doe concurre, and all three shew, that the breaches of Canons or of canonicall obedience unto the canons belong to the jurisdiction of the ordinary and not to the cognisance of the High Commision Court.

Ratio. 3. My third reason, my Lord, is taken from his Majesties Letters Patents confirming the canons of our Church made *primo Iacobi* for therein after he hath in the first place confirmed those canons with his Letters Patents out of his supreme Ecclesiasticall jurisdiction, and in the second place charged all his loving subjects of both Provinces to keepe and observe all those Canons in every point, wherein they doe or may concerne every or any of them, and in the third place charged all Archbishops, Bishops, and all others, that exercise any Ecclesiasticall jurisdiction within this Realme, to see and procure that all within their jurisdictions doe observe the foresaid canons in the former manner: then in the fourth place he gives power to the said Archbishops Bishops and to all others that exercise any Ecclesiasticall jurisdiction within this Realme, to inflict all the punishments mentioned in those canons upon the violators of those canons; so that by his Majesties owne gift & grant *primo Iacobi*. The breaches of canons or of canonicall obedience unto the canons are assigned & deputed to the Episcopall or ordinary jurisdiction and not reserved to the jurisdiction of the crowne or cognisance of the high commission.

Ratio. 4. My fourth reason my Lord, is taken from his Majesties commission granted to, and pleaded by the commissioners, which gives unto them onely a particular and a limited jurisdiction consisting in certaine Ecclesiasticall causes, and certaine particuler offences against certaine particular lawes, and not a generall jurisdiction in and over all Ecclesiasticall causes and offences, as large and spatious as the canons and Ecclesiasticall lawes themselves: And this will appeare my Lord, by a particular enumeration of all the severall branches of the commission it selfe. But this would bee a great labour, and will be

be altogether needleſſe, whether the Defendants can ſhew any ſuch branch of their commiſſion or not, for if they cannot ſhew any ſuch branch of their Commiſſion, then doubteleſſe the labour will bee needleſſe ſeeing the proofe lies on their ſide & no proofe being made *ſufficet neganti ut neget, dummodo non probetur in contrarium*. And if they can ſhew any ſuch branch of their commiſſion, then it ſhall ſuffice to confute that branch when the defendants or their counſell ſhal produce it. I confeſſe my Lord that the Commiſſion dated 11. *Iacobi* extends as far as the canons & eccleſiaſticall lawes themſelues in caſes concerning the reformation of Miniſters, for it gives in expreſſe termes power and authority to the commiſſioners to puniſh a Miniſter for any fault committed in his owne cure or elſe where, that is puniſhable by the Eccleſiaſticall lawes of the Land: but I am ſure my Lord, that there is no ſuch branch in the commiſſion pleaded by the Defendants, and therefore in that very reſpect, if in no other, an information lies good againſt the commiſſioners, and this court hath rightly aſſigned me for a proſecutor in an information againſt the commiſſioners for going beyond their commiſſion. And if there were any ſuch branch in their commiſſion, that branch under favour were void, becauſe it is contrary to the ſence and meaning, to the ſcope and drift, to the very letter and text of the 1 of the 1 *Eliz.* (the ſtatute whereupon their commiſſion is grounded) as ſhall now appeare by my next: and Ratio. 5.

Fifth reaſon, which is taken from the 1 of the 1 *Eliz.* and from the 19 of the 25. of *Hen.* 8. reviv'd in the firſt of *Eliz.* and therefore whatſoever the 1 of the 1 *Eliz.* doth particularly and expreſſly eſtabliſh by reviving the 19 of the 25. of *Hen.* the 8. It is to bee preſumed, that it doth not in the ſame ſtatute afterwards by generall tearmes abrogate, for that were to make that ſtatute like the high commiſſion ſentence againſt me, to be at variance with it ſelfe, and to have our part contrary to another: why then my Lord, ſeeing the firſt of the firſt of *Eliz.* by revivin; the 19. of the 25. of Hen. 8. doth particularly and expreſſly allow unto the ordinary with in his dioceſſe a generall juriſdiction in reference to the canons and Eccleſiaſticall lawes of this land. It is not to bee ſuppoſed that in the following parts of that ſtatute, the Parliament did afterwards by generall tearmes take that away from the ordinary, and therefore thoſe inſuing generall words, which enables the King to nominate commiſſioners, and by his commiſſioners to reforme and correct allmanner errors, hereſies, ſchiſmes, faults offences, enormities, which by any manner of power or authority may be reformed, doe not make voide the the former ſtatute, and generall juriſdiction of the ordinary, but only

ſhew, that be the fault never ſo great, ſo that the ordinary by vertue of his ſubordinate juriſdiction, cannot ſufficiently puniſh it, yet it may be ſufficiently puniſhed by the Kings ſupreame juriſdiction within the land without going to the Pope out of the land for by that paragraph that is inveſted in the crowne, which by the former paragraph was aboliſhed and extinguiſht in others, and in the former paragraph all forraigne uſurped power onely, and not the ordinary juriſdiction is extinguiſht. So that by thoſe former generall wordes, ſuch great, grievous and enormous crimes onely, as the ordinary by vertue of his ſubordinate juriſdiction cannot ſufficiently puniſh, may be brought to the high Commiſſion court, and there fully puniſht, and yet the former ſtatute and generall juriſdiction of the ordinary remaine whole and intire, namely that breaches of Cannons, or of Canonicall obedience unto the Canons belong to the juriſdiction of the ordinary, and that he within his dioceſſe hath power to puniſh any fault puniſhable by the Eccleſiaſticall lawes of this land.

And this interpretation, My Lord, is warranted, firſt by the very title of that ſtatute, which is an act to reſtore unto the crowne the ancient juriſdiction over the ſtate Eccleſiaſticall, and for aboliſhing all forraigne power repugnant to the ſame, not for aboliſhing the ordinary juriſdiction, which is ſubordinate unto it, but for aboliſhing all forraigne power repugnant to the ſame.

And the aboliſhing of the one, and the reſtoring of the other, is the whole and ſole cauſe and occaſion of that ſtatute, as is more fully expreſt in the beginning of that ſtatute, where the Lords Spirituall and Temporall, and the Commons do all acknowledge, that from the 25. yeare of *Henry* the 8. at which time all forraigne uſurped power was by divers good lawes and ſtatutes aboliſht, and the ancient Eccleſiaſticall juriſdiction fully reſtor'd and united unto the Crowne, they were kept in good order, and were disburdened of divers great and intollerable charges and axactions untill ſuch time, as the aforeſaid good laws an Statutes made ſince the 20. yeare of *Henry* the eight by one act in the firſt and ſecond of *Philip* and *Mary* were all cleerely repeal'd whereby, as they there complaine, they were againe brought under an uſurped forraigne power, and yet remaine in that bondage to their intolerable charges, if ſome releife be not had and provided, and thereupon they ſupplicate that both the foreſaid ſtatute of repeale may be repealed, and the foreſaid good laws and Statutes for aboliſhing all forraigne uſurped power, and for reſtoring the ancient

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Eccleſiaſticall juriſdiction unto the Crowne may be revived. In all which there is not any one word ſpoken againſt the Ordinary juriſdiction, but onely againſt forraigne uſurped power, and this being the onely greivance and the totall occaſion of that law, muſt direct us in the interpretation of that law, for *occaſio legis indicat & mentem legiſlatoris & ſenſum legis.*

Secondly by the oath of Supremacy extant in the ſame ſtatute, and made for the ſame purpoſe, namely to aboliſh all forraigne power repugnant to the juriſdiction of the Crowne, not to aboliſh the ordinary juriſdiction, which is ſubordinate unto it.

Thirdly, by thoſe generall wordes, wherein the Kings juriſdiction is expreſt, namely by theſe wordes, all errors, hereſies, ſchiſmes, faults, offences, enormities: which laſt word doth and muſt qualifie all the reſt, and doth ſhew that by thoſe wordes, not every fault puniſhable by the Eccleſiaſticall lawes of this land, but only all great greivous and enormous crimes puniſhable by the Eccleſiaticall lawes of this land, are reſerved to the juriſdiction of the Crowne and cogniſance of the high Commiſſion, for otherwiſe thoſe wordes will abrogate the nineteenth of the twenty fifth of *H.* the eight before revived in that Statute, and will alſo ſwallow up all the ordinary Juriſdictions over England, contrary to an other Statute there revived in behalf of the ordinary juriſdiction, made 23. *Henry* 8. intituled, an act that no perſon ſhall be cited out of the dioceſſe where he or ſhee dwelleth except in certaine caſes, and alſo contraty to the foreſaid firſt *Proviſo* of the ſecond cap. of the firſt of *Elizabeth.*

And Laſtly, by this excellent rule of Saint *Hilary* in his ninth book, *de trinitate, Intelligentia dictorum ex antecedentibus & conſequentibus expectetur.* For this makes the ſeverall parts of that Statute accord one with another, and the whole Statute to be as a body at unity in itſelf, and yet herein my Lord by making one part of a ſtatute interpret another, we give no more to that Honourable Court than is due to every diſcret man for *unuſquiſque ſuorum verborum optimus interpres, & condentis eſt interpretari.*

My ſixt reaſon, My Lord, is taken from the oath of Canonicall obedience, which every Biſhop adminiſters, and which every incumbent takes at his admiſſion and inſtitution, and it is alleaged againſt me in the defendant plea, both in the firſt and third articles, and alſo in the high Commiſſion ſentence and the oath it ſelfe is expreſſed in the inſtrument of my admiſſion and inſtitution in theſe very wordes; *Te primitus de legitima & canonica obedientia* Ratio. 6.

nobis & ſucceſſoribus noſtris in omnibus licitis & honeſtis mandatis per te præſtanda & exhibenda ad ſancta evangelia rite juratum admittimus. We admit thee faith the ordinary, having firſt been rightly ſworne by the holy Goſpells to perfoame lawfull and Canonicall obedience to us and our ſucceſſours in all our lawfull and honeſt mandates. And this canonicall obedience, as *Lyndewode* in the firſt booke of his provincicall. *tit. de maior. & obedientia, cap. Preſbiteri verbis, in virtute obedientia*, ſhewes, is ſuch obedience as the canons and conſtitutions rightly made and publiſhed doe require, and the Cannon law ſhewes, that this canonicall obedience conſiſts in theſe three things. In *reverentia exhibenda, in mandato ſuſcipiendo, & in indicio ſubeundo.* In yeilding canonicall reverence to the ordinaries perſon, in undertaking his canonicall mandates, and in ſtanding to his canonicall judgements. And therefore my Lord, as wee the incumbents by taking this oath of Canonicall obedience, are bound by this oath in thinges concerning the Canons to ſtand to the ordinaries canonicall judgements: ſo the ordinary by adminiſtring this oath unto us, and by accepting this oath from us, is bound by this oath in things concerning the canons to judge us according to the canons. And by both theſe it appeares, that the breaches of canons, or of Canonicall obedience unto the Canons, belongs to the Juriſdiction of the ordinary, and not to the cogniſance of the High Commiſſion Court.

And this reaſon my Lord is ſtronger againſt my adverſaries by their own confeſſion in their plea then it is in truth and by my allegation, for the defendants in their plea challeng canonical obedience from every incumbent to and for every ordinary, and they do extend this canonicall obedience not onely ſo farre as the Canons, but alſo as far as the lawes in generall and the cuſtome reacheth: and therefore in challenging canonicall obedience from every incumbent to and for every ordinary, and in extending that canonicall obedience not onely ſo farre as the Canons, but alſo as farre as the laws in generall and the cuſtome reacheth, they doe under the name of canonicall obedience challenge from every incumbent to and for every ordinary a juriſdiction as generall, as the canons, lawes in generall and the cuſtome will warrant; which is as generall as can be, unleſſe they would bring in arbitrary and blind obedience.

Ratio. 7. My ſeaventh and laſt reaſon; My Lord, to prove that the breaches of canons or of canonicall obedience unto the canons, belongs to the juriſdiction of the ordinary, and not to the cogniſance

of

of the high Commission, is taken from the opinion of our late Lord and Soveraigne King *Iames*, and of Arch-bishop *White-gift*, whereof the former being *ad miraculum usque acutissimus*, did in his time give the authority to the High Commission court, and the latter being a Bishop according to this rule of Saint *Paul*, a Bishop must be holy, just, and unrebukeable, was in his time the cheife person under the other to exercise and execute that authority in the high Commission court. And this their opinion, as it was at first publickely deliv'rd in a solemne assembly of the church to reforme what was amisse, and confirme what was well established: so it hath beene extant in print to the view of the world full 30. yeares and upwards in a Treatise stil'd, the summe and substance of the conference at *Hampton* Court. In the eighty ninth pag. whereof King *Iames* makes this exception against the High Commissioners, that the matters wherein they dealt, were base and meane, and such as ordinaries at home in their owne jurisdictions might censure whereunto in the 90. pag. Arch-bishop *Whitegift* answereth, that though the matters be base and meane, and the fault of that nature that the ordinary jurisdiction may censure it, yet in two cases, no more, onely in two cases the high Commission may interpose.

First, when the party delinquent is to great, so that the ordinary dares not proceed against him. or,

Secondly, so wealthy in his estate, or so wilfull in his contumacy, that he will not obey the summons and censure of the ordinary, and so the ordinary is forced to crave helpe at the High commission

And it seemes My Lord, that the High Commissioners, and the defendants would make this latter my case, for in the 14. Article objected against me in the high Commission court, and pleaded against me in this court by the defendants, they both say, that the ordinary desired the assistance of the High commission against me.

But it is certaine, My Lord, that in this matter I am not within either of these cases, for I being but a Presbyter, and of a single benefice, am not so great, as great as I am and as great as the defendants would make me that the ordinary my Lords Grace of *Canterbury* Primate of all *England*, should be afraid to proceed against me at his ordinary jurisdiction if his cause were good; neither was I ever contumacious, for I was never summoned or cited to appeare at the ordinary jurisdiction. And therefore in this case seeing the fault, if it be a fault is but petty and small, but the breach

breach of a canon or of canonicall obedience unto the canons *ſeſtantibus ad verſarijs*; the perſon but meane & poore, but a Presbyter, a miniſter, an incumbent, and that onely of a ſingle benefice, and never any waies contumacious, this matter belongs not to the cogniſance of the High commiſſion, but to the juriſdiction of the ordinary: and then it hath beene all this while *coram non judice*, and ſo the ſentence and whole proceedings are utterly voyd. And thus much concerning this firſt queſtion, which my refuſall to preach the Archdeacons viſitation Sermon, if it be a breach of Canonicall obedience, begets namely that the breaches of canons or of canonicall obedience to the canons according to the Lawes and cuſtomes of his land, belong to the juriſdiction of the Ordinary, and not to the cogniſance of the High commiſſion court; or that for the breach of a canon or of canonicall obedience to the canons according to the Lawes and cuſtomes of this land men are not to be fetcht from the judgement & juriſdiction of the Ordinary up to the High Commiſſion court, and there to be fin'd & impriſond but are to be left to the judgement and juriſdicton of the ordinary, and he to proceede againſt them according to the power of the Keies.

Now on the other ſide, my Lord if this my refuſall to preach the Archdeacons viſitation ſermon, be no breach of canonicall obedience, then it begets this queſtion, whether the high commiſſioners, your Lordſhip this court, the Barons of the Exchequer, and the Lords of the counſell have power to puniſh me for that which is no fault, no breach of any law? And leaſt the high commiſſioners, this court, the Barons of the Exchequer, and the Lordes of the counſell ſhould all thinke to eſcape by maintaining the affirmative, that they have power to puniſh me for that which is no fault, no breach of any law, and peradventure in a deſperate caſe, they will not ſticke to maintaine a deſperate opinion, eſpecially ſeeing your Lordſhip hath ſhew'd and lead them all the way. For *termino trinitatis* 1637. When your Lordſhip delivered your opinion in the eſpeciall verdict betweene *Allen* and *Naſh*, your Lordſhip not onely affirmed the high commiſſion ſentence of deprivation and degradation againſt me, but alſo maintained, that your Lordſhip and this court were bound to affirme it, whether it were true or falſe, grounded upon a cauſe or upon no cauſe.

Therefore my Lord, to ſtoppe up that gap, to prevent that ſtarting hole, to overthrow that parodox, and with one argument to confute thoſe foure Honorable ſenates whereof the firſt and the laſt, the high commiſſioners and the Lords of the counſell challenge

lenge as great authority, as the King himſelfe hath, and all of you in this my caſe uſurpe a greater, for you all puniſh me for that which is no fault, no breach of any law: I muſt in the firſt place ſhew, that no Magiſtrate whatſoever, no not the ſupreame, hath any power, prerogative, or authority to puniſh any man within his juriſdiction, except it be for ſome fault, ſome offence, ſome vice, ſome error, ſome evill, ſome ſinne, ſome tranſgreſſion of ſome law. And ſecondly I muſt ſhew, that my refuſall to preach the Arch-deacons Viſitation Sermon, my principall or eſpeciall fault in the judgement of my adverſaries, is no fault, no offence, no vice, no error, no evill, no ſinne, no tranſgreſſion of any Law whatſoever: and that therefore neither the high commiſſioners, your Lordſhip, this court, the Barons of the Exchequer, the Lords of the counſell, nor any other Magiſtrate whatſoever, no not the ſupreme, hath any power, prerogative or authority, to puniſh me, muchleſſe to impriſon me for it. Theſis 1. Theſis 2.

And for the firſt of theſe poſitions, that no Magiſtrate whatſoever, no not the ſupreame, hath any power, prerogative or authority, to puniſh any man within his juriſdiction, except it be for ſome fault, ſome offence, ſome vice, ſome error, ſome evill, ſome ſinne, ſome tranſgreſſion of ſome law, this appeares out of the 13. chapter to the *Rom.* verſe. 3. where the Apoſtle ſpeaking of that Magiſtrate, to whom the ſword is committed, of that Magiſtrate, to whom we pay tribute, of that magiſtrate, to whom we muſt ſubmit, not onely for wrath, but for conſcience ſake, of that Magiſtrate to whom every ſoule is to be ſubject, that is, of the ſoveraigne, ſupreme, Monarchicall Magiſtrate, Gods immediate deputy and vicegerent, he ſaith of that Magiſtrate, the Magiſtrate is not a terror to good workes, but to evill. wilt thou then be without feare of the power? doe well, ſo ſhalt thou have praiſe of the ſame, for he is the Miniſter of God for thy wealth. But if thou do evill, then feare, for he beares not the ſword in vaine, for he is the Miniſter of God, to take vengeance on him that doth evill, Saint *Paul* then is cleere, that no Magiſtrate whatſoever, can juſtly puniſh any man, except it be for ſome evill. Theſis 1. tractatio.

And Saint *Peter* teſtifies as much 1 *Epiſt.* 2. chap. 13. and 14. *verſes. Submit your ſelves, ſaith he, to every ordinance of man for the Lords ſake, whether it be unto the King, as the ſupreame, or unto governours as them, that are ſent of him, ſent of him, for what purpoſe? Even for the ſame purpoſe, that he before is ſent of God,*

namely

namely for the punishment of them that doe evill, and for the praise of them that doe well. So that by the expresse word of God, no Magistrate whatsoever, no not the supreame, hath any power, prerogative or authority to punish any man within his jurisdiction, except it be for some fault, some offence, some vice, some error, some evill, some sinne, some transgression of some law.

And this much, my Lord, *King Artashast* saw by the very light of nature, as appeares by the wordes of his Commission, granted to *Ezra*, and expressed *Ezra.7. chap. 25. 26. verse, And thou Ezra (after the wisedome of thy God, that is in thy hand) set Magistrates and Iudges, which may judge all the people beyond the river, even all that know the law of thy God and teach yee them, that know it not. And whosoever will not doe the law of thy God and the law of thy King, let judgement be speedily executed upon him, whether it be unto death, or to banishment, to confiscation of goods, or to imprisonment.* In which wordes King *Artashast*, just as Saint *Peter*, and Saint *Paul* before did, gives power unto *Ezra* to punish men, not for well doing, but for evill doing, no for keeping, but for breaking Gods lawes and the Kings, not for obedience, but for disobedience, not for vertue but for vice.

Nay God himselfe chalengeth no greater prerogative, then to reward the observers and to punish the transgressers of his law. Cursed be he, saith *Moses, that confirmeth not all the wordes of Gods law to doe them. Deut. 27.* or as the Apostle expresseth it, *Gal. 3. Cursed is every man, that continueth not in all things, which are written in the booke of the law to doe them.* And if they onely, who breake Gods law, be cursed, then all those who keep his law, must needs be blessed, and this much *Moses* expressly telleth the *Israelites Deut. 11. Behold saith he, I set before you this day a Blessing and a Curse, the Blessing, if ye obey the commandements of the Lord your God, the Curse if ye will not obey the commandements of the Lord your God.* And if God the supreme Magistrate of all the world, and the creator of all men and Magistrates will not punish any man, except it be for some breach of his law, how can any of his deputy Magistrates, without pride or presumtion arrogate more, or chalenge any power, prerogative or authority to punish any man for that which is no fault, no offence, no vice, no error, no evill, no sinne, no transgression of any law whatsoever.

And here now my Lord behold the conformity both of our Kings

Kings and of the lawes of our Kingdom unto the word of God in this particuler, our (d) Kings chalenge no more, our lawes made by their owne appointment, confirmed by their owne authority, which by oath they are bound to maintaine, and which his (e) Majesty professeth, he will maintaine against whatsoever opposition with the hazard of his owne being, gives them no more. This appeares out of the first of the first of *Eliz.* an act to restore unto the crowne the ancient jurisdiction over the state Ecclesiasticall, which Sir *Edward Coke* in *Cawdreys* case calls, an act onely declaratory and assertory of the ancient jurisdiction of the Crowne, not collatory or introductory of any new right. And what jurisdiction doth that act restore, or more properly declare to be restored to the Crowne? Namely all such spirituall and Ecclesiasticall jurisdiction, as by any manner spirituall or Ecclesiasticall power or authority hath heretofore beene, or may lawfully be exercised for the Visitation of the state Ecclesiasticall, and for the reformation of all manner errors, heresies, schismes, abuses, faults, offences, contempts, enormities.

In which wordes, my Lord, there are three thinges expressed, incident to the ancient jurisdiction of the Crowne.

First it is Soveraigne and supreame, over and above all, excluding and abrogating all forreigne, including but not abrogating all domesticke jurisdiction.

Secondly, it is such a jurisdiction, as may lawfully be exercised, it is not then an unlawfull, but a lawfull jurisdiction.

And Thirdly it is for the reformation of all errors, heresies, schismes, abuses faults, offences contempts, enormities. It is no power then to punish men for truthes for conformity to the doctrine and discipline established for vertues, for obedience to the Ecclesiasticall lawes of this land, no, but for errors, heresies, schismes, abuses, faults, offences, contempts enormities.

And this my Lord doth likewise appeare by the end of that ancient jurisdiction of the Crowne, expressed in that statute, which is, that all thinges in the Ecclesiasticall courts by vertue of that ancient Ecclesiasticall jurisdiction of the Crowne may be done to the pleasure of Almighty God to the increase of vertue, and to the maintenance of the peace and unity of this realme.

Now my Lord if the end of that ancient jurisdiction of the Crowne be for the maintenance of the peace and unity of this realme, then that ancient jurisdiction of the Crowne, cannot pu-

(d) King James confesseth so much in his speech to the Lords & common at whitehall on Wednesday 21 Martii 1609. p. 12. & pag. 13. hee saith, all Kings that are not tirants or periured wil be glad to bound themselves within the limites of their lawes, & they that perswad them the contrary, are vipers & pests, both against them and the Common Wealth.

(e) K. Charles in his declaration to all his loving subiects published by the advice of his privy counceil 1641. pag. 20. saith wee doubt not, it will bee the most acceptable declaration a King can make to his subiects, that for our part we are resolved not only duely to observe the lawes Our selfe, but to

maine taine them against what opposition soever, though with the hazard of our being.

niſh men for peace and unity, but for diſcord and diſſention; nor for obeying the lawes of this land, which is a principall meanes, to maintaine the peace and unity of this realme, but for violating the lawes of the land, which is a forcible meanes to breed diſcord and diſſention.

Againe, if the end of that ancient juriſdiction of the Crowne, be for the increaſe of vertue, then that ancient juriſdiction of the Crowne cannot puniſh men for their vertues, but for their vices, for otherwiſe that would be a meanes to decreaſe vertue, and to increaſe vice.

And thirdly, ſeeing the end of that ancient juriſdiction of the Crowne, is, that thereby all thinges in the Eccleſiaſticall courts ſhould be done to the pleaſure of Almighty God, and the pleaſure of Almighty God, as I have before ſhew'd out of Saint *Peter* and Saint *Paul*, is, that the Magiſtrate ſhall not be a terror to good workes but to evill; Therefore the ancient juriſdiction of the Crowne cannot puniſh men for well doing, but for evill doing, not for keeping, but for breaking Gods lawes and the Kings, not for obedience, but for diſobedience, not for vertue but for vice.

And this much my Lord, is evident by all lawes, for all lawes doe conſiſt of a direction and a puniſhment, and they inflict the puniſhment onely upon the tranſgreſſers, not upon the obſervers of the direction of the law, and this the Apoſtle ſheweth in his 1. *Epiſt. to Tim. chap.* 1. *ver.* 8. We know the law is good, if a man uſe it lawfully, how wes that? why thus, knowing this, ſaith the Apoſtle that the law is not given to the righteous, but to the lawleſſe and diſobedient, what is not the law given to the righteous, yes in reſpect of the direction, not in reſpect of the puniſhment, for becauſe he obſerveth the direction of the law, he is freed from the puniſhment of the law, but to the lawleſſe and diſobedient, the law is given in reſpect both of the direction and puniſhment, and becauſe they obſerve not the direction of the law, they and they onely are liable to the puniſhment of the law, and thereupon if any judge ſhall impoſe the puniſhment of the law, upon any that doth not violate the direction of the law, he croſſes and confounds the very law it ſelfe, and incurres that foule fault committed by *Ananias* the high Prieſt and excepted againſt by Saint *Paul*, *Acts.* 23. Thou ſitteſt to judge me after the law, and contrary to the law commandeſt thou me to be ſmitten? And therefore my Lord ſeeing the nature, property, and purpoſe of all lawes, is to ſecure the obſervers,

obſervers, and to lay the puniſhment of the law onely upon the violaters of the direction of the law, It is needleſſe to alleage any more particuler lawes, to prove that which is the ſcope and intent of all lawes. Yet I cannot pretermit one, and I will alleage but one law of the land more to this purpoſe, and that's the twenty nine chapter of *Magna Charta* moſt fully and ſtrongly confirmed 3. *Caroli*, by the Kings Majeſty, in his anſwer to the Commons Petition of right in theſe wordes, let right be done, as is deſired according to that twenty nine chapter of *Magna Charta*.

Now what ſaith that twenty nine Chapter of *Magna Charta*? No freeman, ſaith that chapter, ſhalbe taken or impriſoned, or be diſſeiſed of his freehold, or liberties, or free cuſtomes; or be outlawed, or exiled, or any otherwiſe deſtroyed, neither will we paſſe upon him, nor condemne him, ſaith the King, but by the lawfull iudgement of his Peeres, or by the law of the land. That is, under your Lordſhips, & the Courts correction whoſe office it is to interpret ſtatutes, *unleſſe* that party be firſt convicted & found culpable of the breach of ſome law of this land, by a legall proceeding, either at the common law, or elſe in ſome other court, and whoſoever ſhall either condemne, or puniſh any freeborne ſubject of this kingdome, either for his obedience to the lawes of this land, or for that which is no breach of any law of this land, he doth violate that twenty nine chapter of *Magna Charta*, and for that he ſtands excommunicate by a double excommunication, the one deliver'd publikely here in *Weſtminſter* Hall, (*f*) 37. *Henry* 3. by *Bonifacius* then Archbiſhop of *Cant.* aſſiſted with 14. other Biſhops all in their pontificalls, and tapers in their hands, which after the excommunication denounced, they threw upon the ground, and as they lay there ſmoaking they cried ſo let all them that incurre this ſentence, be extinct, and ſtincke in hell, and all this was done in the preſence of the Commons, Nobles, yea and of the King himſelfe, who at the ſame time with a loud voyce ſaid, as God me helpe, I will as I am a man, a Chriſtian, a Knight, a King crowned and anointed inviolably obſerve all theſe things, and the excommunication it ſelfe is ſet downe at the end of the ſtatutes made 52. *H.* 3. in the booke of ſtatutes at large put out by judge *Raſtall*, & the other is extant in the ſame booke at the end of the ſtatutes made 25. *Edward.* 1. and ut tered by *Robert Winchelſee* Arch-biſhop of *Canterbury* in his time, & both againſt the violaters of this renowned law of *Magna Charta* often confirmed not onely by the following Kings, the ſucceſſours

(*f*) Tempore Bonifacii Archiep regnante tunc in Anglia. H. 3. videlicet anno. D m. 1253. Idibus Maii. in aula Weſtmon. 15. Epiſ. leguntur ſententiam de qua hic fit mentio, fulminaſſe. Lyndew. Prov. lib. 5. tit. de ſententia excom. cap. cum malum. Parag. Item excom. verbis. ab omnibus. Daniell in the life of H. 3.

of *Henry* the third, and *Edward* the first, but also by the Pope himselfe, as appeares out of the fift booke of *Lyndewodes* provinciall, *titulo de sententia excommunicationis cap. Cum Malum parag. Item excommunicat.*

And besides the former confirmations and excommunications, the authority of *Magna Charta* was made sacred and inviolable, as it were 25. *Edward.* 1. first, by decreeing that that charter under the Kings seale should be sent unto all the Cathedrall Churches throughout the Realme there to remaine, and to bee read before the people twice a yeare. And secondly by enacting that that Charter should ever after be propugnated and vindicated by the sentence of excommunication, to be denounced twice a yeare by all Archbishops and Bishops in their Cathedralls against all those that by word, deede, or counsell did doe contrary to the foresaid charter, or that in any point did breake or undoe it, and if the same Bishops or any of them should be remisse in the denuntiation of the said sentence that then the Archbishops of *Cant.* and *Yorke*, for the time being, should compell and distraine them to the execution of their duties in forme aforesaid, as appeares by the 3. and 4. chap. 25. *Ed.* 1.

And sutely my Lord those two former solemne excommunications were & those other continuall semianuall excommunications might have beene hitherto, and may hereafter bee, rightly and justly denounced against the violaters of this 29. chap. of *Magna Charta*, for this 29. chapter, that no free man is to be punished but for the breach of some lawes good Divinity, & accords excellently with the word of God. The Apostle *Rom.* 4. 15. telles us ὁ νόμος ὀργὴν κατεργάζεται, the law causeth wrath, that is punishment; and how doth the Law cause wrath or punishment? not simply & singly of it selfe not observ'd but transgrest, and therefore in the next words the Apostle saith, οὗ δὲ οὐκ νόμος, οὐδὲ παράβασις, where there is no Law, there is no transgression. And as where there is no νόμος, no law, there there cannot bee any ἀνομία, any transgression of Law: so where there is no ἀνομία no transgression of law, there there cannot be any ἁμαρτία, any fault or offence, and where there is no ἁμαρτία no fault or offence, there there ought not to be any ὀργὴ any wrath or punishment.

Nay my Lord though there be a law, yet if that law be not transgrest there cannot justly be any ὀργὴ, any wrath or punishment: At most, though there may bee ὀργὴ proposita, ὀργὴ denuntiata, wrath proposed or denounced in the Law, to terrifie all persons from sinne, which is nothing but the binding power of the Law: yet justly there

ly there cannot be ὀργὴ *imposita*, ὀργὴ *inflicta*, wrath imposed or inflicted by the Judge, upon any person to punish him for sinne, untill the Law be transgrest, and sinne committed by that person. And this the Apostle *Rom.* 5. 12. doth most acutely & divinely shew by imputing the punishment partly to the Law, and partly to the transgression of the law, to the Law as to a just rule inflicting punishment upon the transgression & to the transgression, as to a meritorious cause deserving that punishment, according to the just rule of the Law διὰ τῆς ἁμαρτίας ὁ νόμος εἰσῆλθε ὁ θάνατος. By sin, which is the transgression of the law, Death the wrath, & punishment of the law entred into the world.

So then my Lord, this is most certainely and most undoubtedly true, whereloever there is any ὀργὴ, any wrath or punishment, any fining or imprisonment, any deprivation, degradation, excommunication, or any other censure sentence, mulct, or punishment whatsoever rightly and justly inflicted: There there must of necessity, of necessity my Lord there, there must be some ἁμαρτία some fault or offence Whereloever there is any ἁμαρτία any fault or offence, there there must of necessity, of necessity my Lord there there must be some ἀνομία some transgression of Law. Whereloever there is any ἀνομία any transgression of Law, there there must of necessity, of necessity my Lord, there there must be some νόμος παραβάτης, some law transgrest. If there be no νόμος παραβάτης no law transgrest then it is impossible it is impossible my Lord, that there can be any ἀνομία, any transgression of Law. If there be ἀνομία, no transgression of law, then it is impossible, it is impossible my L. that there can be any ἁμαρτία any fault or offence. If there be no ἁμαρτία, no fault or offence then it is impossible, tis impossible my Lord, that there can be any ὀργὴ any wrath or punishment any fining or imprisonment, any deprivation, degradation excommunication, or any other censure sentence, mulct or punishment whatsoever rightly and justly inflicted.

Nay further my Lord, this law must be a knowne law; for by the law is the knowledge of sinne, saith the Apostle *Rom.* 3. 20. and by what law is the knowledge of sinne? surely by a knowne law, not by an unknowne law, for seeing sinne is the transgression of the law, he that will know sin, which is the transgression of the Law, must know it by the law transgrest, and therefore he must first know, that law which is transgrest: and this the Apostle doth expressely and pregnantly shew *Rom.* 7. 7. *What shall we say* (saith the Apostle) *is the Law sinne? God forbid; nay I knew not sinne, but by the*

Law

Law for I had not knowne luſt, to be a ſinne, *unleſſe the Law had ſaid thou ſhalt not luſt*. So that firſt we know the Law, and then by vertue of the law, we know ſinne, which is the tranſgreſſion of the Law.

And here my Lord, I muſt againe repeate the Apoſtles queſtion, *What ſhall we ſay*, ſaith the Apoſtle, *is the Law ſinne? God forbid*, yea, God forbid it in deede, my Lord, for if the law be ſinne, then the lawyers *cujuſcunque generis, eo nomine* are ſinners, and the greater Lawyers the greater ſinners, and Judges the greateſt of Lawyers, the greateſt of ſinners, and how ſhall wee avoid or confute this conſequence, my Lord, which toucheth all our copyholds. Why, juſt as the Apoſtle doth the former. The Apoſtle proves the law to bee no ſinne, becauſe the law diſcovers, forbids, condemnes, and puniſheth ſinne. And if the Lawyers doe ſo, then the Lawyers *cujuſcunque generis, eo nomine* are no ſinners but the ornaments both of Church and common wealth, and Gods Miniſters and Deputies to reforme and preſerve both. But if in ſteed of diſcovering ſinne, they conceale ſinne, in ſtead of forbidding ſinne, they command ſinne, in ſtead of condemning ſinne, they juſtifie ſinne, and in ſtead of puniſhing ſinne, they patronize, protect and prefer ſinne, then Lawyers *cujuſcunque generis eo nomine* are ſinners, and the greater lawyers the greater ſinners, and judges the greateſt of Lawyers, the greateſt of ſinners, for as the law doth firſt diſcover ſinne, and then condemne and puniſh it: ſo muſt Judges, firſt diſcover a particular ſinne, a particular tranſgreſſion of law, and particular law tranſgreſt, and then condemne and puniſh it. Otherwiſe they are not judges according unto law, but ſinners againſt law, and their very act and worke of judging, in reſpect of the anomy, obliquity and irregularity of it, is not judging according unto law, but ſinning againſt the law.

Nay my Lord, not onely Judges, but every man is to ſhew unto his brother, his particular ſinne, his particular trangreſſion of law, and the perticular law tranſgreſt even by Gods owne expreſſe command *Levit.* 19. 17. Thou ſhalt not hate thy brother in thy heart, but thou ſhalt plainely reprove him, and not ſuffer ſinne upon him, and if every man muſt plainely reprove his brother, and not ſuffer ſin upon him, then every man muſt plainely ſhew his brother his particular ſinne; and if every man muſt plainely ſhew his brother his particular ſinne, then ſeeing ſin is the tranſgreſſion of the Law, every man muſt plainely ſhew his brother his particular tranſgreſſion of law, and if every man muſt plainely ſhew his brother the particuler

ticuler transgression of law, then every man must plainely shew his brother the particular law transgrest. And if every man must doe this in love as a brother, then ever Judge must doe it, both in love as a brother, and in Justice as a Judge: and therefore no Magistrate whatsoever, no not the supreame, can justly inflict any wrath or punishment upon any man whomsoever, unlesse he first discover in him and to him, to him and in him, some particuler fault, some particuler offence, some particuler vice, some particuler error, some particuler evill, some particuler sinne, some particuler transgression of Law.

And by this, my Lord, it appeares, that the two finall sentences of the High Commission Court against mee, are both voide: first that of the deprivation and degradation, because in twelve sheets as it is stands upon record in this Court, it mentions no one particular fault, but onely generalls, namely grievous and enormous crimes, excesses & delicts *contumacies contempts & incorrigibilities*, & therfore my Honored Lord Cheife justice, under favour your L^d. was much mistaken, when your Lordship delivering your opinion in the speciall verdict between *Allen* & *Nash* did paralell my case and *Caudreys* case in the principall point. The principall point, in *Caudreys* case, (g) was not, whether the sentence found against *Caudrey* did charge *Caudrey* with any particuler crime within any branch of the Commission found, for that's evident, & granted on both sides in *Caudreys* case, & is the principall point in my case, & the negative thereof is as evident in my case, as the affirmative thereof was in *Caudrys* case, and that negative makes the principall point and question in my case to be this, whether the matter be *coram non judice* or not, seeing the sentence found against mee doth not charge me, with any particuler crime within any branch of the Commission found, but onely with generalls, namely grievous & enormous crimes mentioned in the articles and those Articles not found; so that in very deede there is nothing at all found against me, according to this rule of the common law, *de non apparentibus et non existentibus eadem est ratio, idem inde cium.*

But the principall point and question in *Caudreys* case was, whether the High Commissioners had persued the forme of their commission, or not, in depriving *Caudrey* upon his first conviction, who by the Statute, the 2 of the 1. *Eliz.* was to be deprived upon his second conviction, which is no point or question in my case. And if your Lordship will paralell these two cases in the principall point, your Lordship must either shew, that the sentence found againg *Caudrey* did not charge *Caudrey* with any particuler crime

(g) And that the said Caudrey before time of the said trespasse supposed, was deprived of his said benefice before the said Commissioners, as well for that he had preached against the said booke of common prayer, as also for that he refused to celebrate Divine Service according to the said booke. & shewed particulerly wherein, Caudreys case. Fol. 3.

within any branch of the Commission found, but onely with generalls, as in my case. Or else that the sentence found against me, doth charge me, not onely with generalls, but also with some particuler crime within some branch of the Commission found, as in *Caudreys* case. And unlesse your Lordship can doe one of these two, your Lordship may sooner bring together *Hercules* his two pillers, or the two poles, then paralell our two cases in the principall point. And untill then, this sentence containing onely generalls, shall according to Gods word, the word of truth, stand charg'd and branded with injustice and uncharitablenesse, and in respect of the anomy obliquity and enormity of it, shall be taken by all men of sound judgement to bee as indeede it is not a sentence according unto law, but a sinne, and a foule sinne against law; or rather to use the words of that erronious sentence in a true sence, a grievous and enormous crime contrary to the Law, and therefore voide. And both the High Commissioners in giving of it, and your Lordship and this Court in affirming of it, have shewed your selves, not Judges according unto law, but sinners against Law, and I out of love to all your persons, out of duty unto God, and out of obedience unto his word, am bound to tell you so much expressely by the former text. *Levit.* 19. 17. *Thou shalt not hate thy brother in thy heart, but thou shalt plainely reprove him and not suffer sinne upon him.*

And secondly my Lord, this High commission first finall sentence of the five hundred pounds fine, and two yeares imprisonment against me, is for the same reason likewise voide, because though it mention a particular, namely my refusall to preach the Archdeacons Visitation Sermon; yet that particular, that refusall to preach that Visitation Sermon, is no fault, no offence, no vice, no errour, no evill, no sinne, no transgression of any law whatsoever, but a vertue, and an eminent vertue, even the vertue of canonicall obedience unto the 36. 49. and 52. Canons to his Majesties Letters Patents, Royall prerogative and supreame Ecclesiasticall jurisdiction, as shall now fully and amply appeare out of my second position. And thus much concerning my first position, that no Magistrate whatsoever, no not the Supreame, hath any power, prerogative, or authority, to punish any man within his jurisdiction, except it bee for some fault, some offence, some vice, some error, some evill, some sinne, some transgression of some law.

Thesis 2. probatio.

I now proceede to my second position, that my refusall to preach the

the Archdeacon of Cant. Doctor *Kingsleys* visitation Sermon, my principall or especiall fault in the judgement of my adversaries, is no fault, nor offence, no vice, no errour, no evill, no sinne, no transgression of any law whatsoever, and that therefore neither the High Commissioners, your Lordship, this court, the Barons of Exchequer, the Lords of the Counsell, nor any other Magistrate whatsoever, no not the supreme, hath any power, Prerogative or authority to punish me, much lesse to imprison me for it.

And that I may begin and goe on in this position, with that upon which I did much insist in the former; certaine it is, my Lord, that here is ὀργὴ, here is wrath and punishment, here is ὀργὴ *ad octo*, here is wrath in the highest degree, here is wrath as grievous as the fire is hot; here is wrath incomparable, implacable, inexplicable, wrath unparalel'd, wrath superlative, τὸ κακὸν ὑπὲρ ἐκδιήγησιν, ὑπὲρ ἐξαμυθίαν ἐστὶ; as *Greg. Nissen*, περὶ παρθενίας, in another case speakes. The evill, the mischeife is beyond expression, beyond consolation.

The two finall sentences of the Honorable Court of High Commission against me, may not unfitly be compared to that winde in the first of *Iob*: for as that winde strooke upon the foure corners of *Iobs* eldest sonnes house, and so did utterly ruinate it: so have these two finall sentences strooke upon the foure quarters of my estate, and utterly ruinated me in all, if they stand good. first they have strooke me in my goods by a fine of five hundred pounds, estreated into the Exchequer, and partly paid, and partly stall'd. Secondly they have strooke me in my liberty by foure times imprisonment, and nine full yeares and three quarters continuance therein. Thirdly, they have strooke me in my benefice by deprivation. Fourthly they have strooke me in my Ministeriah function by degradation; nay my Lord, they have strooke me one stroke more, above and beyond all the former: they have drawne out the spirituall sword of excommunication against mee, and therewith as much as in them lies, they have strooke me out of this orthodox Church, cut me off from the communion of Saints, delivered me up to Satan, and adjudged my soule, (for the salvation whereof our Lord and Saviour Jesus Christ shed his most precious blood) to the eternall torments of hell fire, so that if ever there were, then here is wrath incomparable, implacable, inexplicable, wrath unparalel'd, wrath superlative.

Now my Lord, if herein the defendants have proceeded accor-

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ding to the rule of Justice, which placeth and observeth a proportion and correspondency betweene fault and the punishment, according to this rule of Gods word *Deut.* 25.2. *Secundum mensuram delicti erit plagarum modus*: then it must needes be, that this grievous & enormous punishment must argue some greivous & enormous crime, some crying sinne, like that of *Cain* in murdering his brother *Abell*, whose blood calles to God for vengeance, out of the dumbe and dead Element of the earth: nay it must argue some ascending, some soaring, some mounting sinne, flying up into the presence of God, and laying hands as it were upon the Almighty, and violently haling & pulling him downe, to execute vengeance unpon the offender like the sinnes of the Sodomites and what is it? Why it is my refusall to Preach the the Archdeacon of *Canterbury* Doctor *Kingsleys* visitation Sermon. *Parturiunt montes, nascetur ridiculus mus.*

And now my Lord, to examine this their sentence and proceeding to law and justice. If this wrath this incomparable wrath and punishment, or any peere or particle thereof, be rightly and justly inflicted upon me for my refusall to preach the Archdeacons Visitation Sermon: Then according to the former rule delivered in the former position, this my refusall to preach the Visitation Sermon, must of necessity be some ἁμαρτία, some fault or offence. If this my refusall to Preach the Visitation Sermon be ἁμαρτία, some fault or offence, then it must of necessity be some ἀνομία, the transgression of some law. If it bee ἀνομία the transgression of some law, then there must of necessity be some νόμου παραβάτης, some law transgrest, that bindes me to Preach that Visitation Sermon. My Lord the High Commissioners by the very Letter and text of some Commissions, that I have seene, have this power, that they may punish a Minister for any fault committed in his owne cure or elle where, that is punishable by the Ecclesiasticall lawes of this land. By which words my Lord it appeares, that first there must bee some fault. Secondly, that that fault must be against some law. Thirdly that it must bee against some Ecclesiasticall law of the land or else that Honorable Court by the very Letter and text of the largest commissions, that I ever saw, have no power to punish a Minister.

And though this their Commission my Lord, doth much outstrip the first of the first of *Eliz.* the statute whereon it is grounded: for that statute extends not to every fault punishable by the Ecclesiasticall lawes of this land, for then it would swallow up all the ordinary juris-

ry jurisdictions over England: but onely to greivous and enormous crimes punishable by the Ecclesiasticall lawes of the land, as the Counsell on both sides in the speciall verdict betweene *Allen* and *Nash* have confest, and the wordes of the statute, as I before have shewed, doe necessarily enforce. Yet in this case of mine, to shew mine owne innocency and the goodnesse of my cause, not to make a precedent in other mens cases, I will give the defendants free leave and liberty to exceed both the statute and their Commission. I will not coope them up, and confine them, within the lists and limits of the Ecclesiasticall lawes, as the most indulgent and munificent Commissions that ever I saw, doe, yea and must doe, unlesse they will make their Commission as well Temporall as Ecclesiasticall: no my Lord, I will not require an Ecclesiasticall law, let them produce an law, canon, civill, common, statute or divine, nay my Lord, I will once againe deale more Nobly and generously, more heroically and munificently with that Honorable court, with those *Augustins*, *Hieromes*, *Gregories*, *Ambroses*, with those *Nazianzens*, *Chrysostomes*, *Origens*, *Basils*, with those reverend, right reverend, most reverend Prelates and Patriarchs of our church, I will not require a whole law, noe not a full period of a law. Let them onely produce some colon, nay some comma of law onely, nay my Lord I will once againe deale more Nobly and generously more heroically and munificently with that Honorable court, I will not require a whole colon, no, nor a whole comma of law, neither, that were too too an *Herculean* labour for that Honorable Court, for those *Canonists*, *Civilians*, and Divines, for those commissaries, chancellours, Arch-deacons, Deanes, Bishops Arch-bishops, let them onely produce πρίψημα τὶ, περικάθαρμα τὶ, some shaving, some scraping, some paring, some shred, peece, particle or fragment of Law. nay let them onely produce ἰῶτα, *unum unum apicem*, one jot, one apex, one tittle, one pricke or point of law, of any law my Lord, and I doe most willingly and most instantly submit.

And now my Lord as the defendants doe pretend a fault, so likewise they doe pretend a law: the pretended fault is my refusall to Preach the Archdeacons Visitation Sermon: the pretended law is the Law of Canonicall obedience. They say, that my refusall to preach the Arch-deacons visitation sermon, at the Arch-deacons command, is a breach of Canonicall obedience.

And now my Lord, we are come to the τὸ κρινόμενον, *ad statum causæ, ad caput controversiæ*, for this Canonicall obedience is the

 whole

whole and sole ground and foundation and supportation of the whole sentence against mee, and it cannot be understood and determined, whether my refusall to preach the visitation sermon, be a breach of canonicall obedience or not, unlesse it be first knowne and understood, what this Canonicall obedience is: so that in the first place, my Lord, there is a necessity imposed upon mee, breiflly to present unto your Lordship what this Canonicall obedience is.

The high Commissioners in the first part of their finall sentence, as it was given in their owne Court, make Law, custome, and Canonicall obedience three different and distinct thinges. For therein they say, that the Archdeacon in injoyning Huntley to preach his visitation sermon, hath commanded him no more, than the said Huntley was bound to doe by law, custome and by his Canonicall obedience, and herein by making Canonicall obedience a third and distinct thing from law and custome, they shew that they onely use the name of Canonicall obedience, but intend arbitrary or blind obedience, that is, a generall and universall obedience to all the Archdeacons commandes, though they swarve both from law & custome, whereby they make every Arch-deacon, Bishop and Arch-bishop a law-maker within his owne jurisdiction, and every of their commands binding and compulsive, though fortified neither by law, nor Custome.

But your Lordship, as it seemes, not content herewith steps a degree further, and makes Canonicall obedience, not onely a third and distinct thing from law and custome, but also a thing opposite, and contrary to law and custome: for *termino trinitatis* 1637. when when your Lordship delivered your opinion in the speciall verdict betweene *Allen* and *Nash* your Lordship said, that if the Archdeacon did owe me an 100. pounds by bond he might by vertue of my Canonicall obedience, command mee to deliver up that bond, the money, not being yet paid. Or he might command me by vertue of my Canonicall obedience, to send him a yoke of fat oxen, a couple of good Coach-horses, or a score of fat weathers, which I am sure is not onely beyond, but contrary to law and custome, and more than either his Majesty or any of his royall predecessours did ever chalenge of any freeborne subject, either by the oath of allegiance or oath of supremacy, & whether your Lordship have altered this your opinion, or no, I know not, the high Commissioners I suppose, have altered theirs.

Sr. John Bram=
=ston. Chiffjus:

For certaine it is, that the former wordes of the first part of their first

first finall sentence, as it was given in their owne Court, are altered in the defendants plea, wherein they make Canonicall obedience, not a third and distinct thing from law and custome, as before, but a subordinate, relative, and a proportionable thing to law and custome, by changing these their former wordes, law, custome and his canonicall obedience, into these, law and custome according to his Canonicall obedience.

And this alteration, as I suppose, proceeded from the acute and polite wit of you Master Justice *Heath*, at that time the Kings Attourney Generall and Commissioners counsell, who seeing that the Commissioners by the former wordes, did make canonicall obedience, a third and distinct thing from law and custome, that thereby they did under the name of canonicall obedience, chalenge arbitrary and blind obedience to and for every Arch-deacon, Bishop, and Arch-bishop, that thereby they made themselves all lawmakers within their severall jurisdictions, and that so at once by two wordes, they gave two deadly woundes, one to his Majesties supreame jurisdiction, who under God is the onely lawmaker within this land, the other to the freedome and liberty of all his free-borne Subjects, who are not tyed to any lawes, but to those onely, whereunto they give their consents; did prettily and wittyly invent and contrive this trimme and almost undiscernable alteration, to cure these two deadly woundes: for which Sir, you did then, deserve a better fee from the Commissioners, than either from his Majesty, or from his other free-borne Subjects.

But my Lord, though, Master Justice *Heath* hath with that one salve well cured those two sores, yet therein he hath not rightly and truely expresst and discover'd the nature of canonicall obedience, for Canonicall obedience hath no reference to custome; that's customary obedience, which is due to custome, neither hath canonicall obedience relation to the laws in generall, of what kind soever they bee, but onely to that part and kind of law, which is called the canon law, for canonicall obedience, is such obedience as the canons require, and such obedience as the canons require, is canonicall obedience, they are convertible of the same circuit and circumference, just even: whatsoever is within compasse of canonicall obedience, is within the compasse of the canons: and whatsoever is without the compasse of the canons, is without the compasse of canonicall obedience, so that if I am bound by my canonicall obedience to preach the Arch-deacons visitation Sermon,

then

then I am thereunto bound by some canon, and if not by some canon, then not by my canonicall obedience. And that this is so, that canonicall obedience is such obedience as the canons require, I will now endeavour to prove by foure reasons, such I hope, as shall satisfie your Lordship, this Court, and all men that will be satisfied with reason, and I hope, shall silence them, that will not with reason be satisfied.

Thesis tertiæ probatio.

Ratio. prima.

My first reason to prove that Canonicall obedience is such obedience, as the canons require, is drawne a *vi & virtute ipsius vocis Canonicæ*, from the very sence and signification of this word Canonicall, for as legall obedience is such obedience as the law requires, Evangelicall obedience such obedience as the Gospell requires, customary obedience such obedience as the custome requires, arbitrary obedience, obedience *ad arbitrium prælati*, according to the prælates pleasure, blind obedience such obedience as is requir'd of blind men, and unreasonable obedience such obedience as is requir'd of unreasonable creatures; so a *vi & virtute ipsius vocis canonicæ* from the very strength, sence, and signification of this word Canonicall, Canonicall obedience must be such obedience, as the canons require. And this reason is further confirmed by an argument drawne (h) a conjugatis or denominativis, a toprike place delivered by *Aristotle* and *Quintilian*, and approved, and put in practise by Saint *John* 1. *Ep.* 3. chap. 7. vers. there the holy Apostle, saith; *Hee that doth righteousnesse is righteous, even as he is righteous*, that is, as our Lord and Saviour Jesus Christ is righteous. In which wordes Saint *John* argueth from one conjugate to an other, from doing of righteousnesse to being righteous: and so after his example I argue he that doth the canons, is canonicall, he that performeth obedience to the canons, performeth canonicall obedience. And that this is true sence of this word canonicall, appeares by the authority of *William Lyndewode* in the fifth booke of his Provincicall *titulo de Hæreticis, cap. Reverendissime.* where he doth thus expound this word canonicall, (i) *canonice id est secundum exigentiam canonum*, canonically, that is, saith hee, according as the canons require. And this my Lord, is my first reason, drawne a *vi & virtute ipsius vocis*

(h) Hoc argumenti genus quandoque acuminis, quandoque virium multum, quandoque utrumque habebit. Eleganter itaque apud Terentium est; Homo sum, humani nihil ame alienum puto. Rod. Agricola de Inventione lib. 1. cap. 10.

Σύστηχα δὲ λέγεται τὰ κατὰ τὴν αὐτὴν συστοιχίαν ἅπαντα, οἷον δίκαιος τινὶ, δίκαιος, δίκαιον, δικαίως.

Arist. Secundo Topicor. libr. His illud adiicere ridiculum putarem, nisi eo Cicero uteretur, quod coniugatum vocant. Vt eos qui rem iustam faciant iuste facere: quod certe non eget probatione Quintil. Institut. lib. 5. (i) Item eodem lib. tit. de Purgatione canonica. cap. statuimus, verbo, Canonice: canonice id est, secundum exigentiam Canonum.

canonicæ

canonic a together with an argument drawne a Conjugatis or Denominativis, a topicke place deliver'd by *Aristotle* and *Quintilian*, and approved and put in practise by Saint *Iohn*, and confirmed by the authority of *William Lyndewode*.

My second reason my Lord, is taken from the generall consent of learned men, not onely in our owne church, and of our owne religion, but also from those, who though they are of our religion, yet they are not of our Church, I meane of our nationall Church, nay from those, that are neither of our church nor of our religion. And this reason being drawne from the joynt consent of learned men, ought to be of great force and authority according to that of *vincentius Lerinensis, quod abomnibus, quod ubique quod semper tenetur, illud pro certissima veritate habendum & tenendum est.* I will begin my Lord, with those that are furthest from home.

My first Man is *Bellarmine*, a learned man in the judgement of those, that are soundly and deepely learned on our side: my most reverend diocesan and provinciall my Lords Grace of *Cant.* in his relation of the conference betweene his Grace and Master *Fisher* the Iesuite doth divers times highly magnifie him for his acute solid and profound discourse upon divers points of controversie. sect. 3. num. 2. & num. 17.

And Doctor *Rainolds* speaking of *Bellarmine* and *Campian Stilet* them *nobile par Iesuitarum*, and prefers *Bellarmine* as far before *Campian notitia rerum*, as he doth *Campian* before *Bellarmine structura verborum*. This learned man in a particuler treatise immediately following his bookes of Justification, the title whereof is *de bonis operibus* in particulari. 10. *chap.* speaking of Canonicall houres, doth there thus describe them, canonicall houres, saith he, are such houres, as are appointed by the canons to praise God, and to pray unto God, and these houres, saith he, are call'd canonicall, because they are assigned, deputed and appointed by the canons to that purpose. And *Petro soave Polano* the learned authour of that excellent history of the councell of *Trent* in his sixt booke, doth give the same reason of the same name, Collegiate churches by their institution have this function among others, to assemble themselves in the churches to praise God, at the houres appointed by the canons, which saith he, are therefore call'd canonicall. and *Brentius* a learned man of our owne religion in his *Confessione wittenburgensi.* cap. 30. *de Horis Canonicis*, doth give the very same reason of the same name, that the two former doe.

Againe, *Gregory* the great in the 11. booke of his Epiſtles and 51. Epiſt. to *Iohn* Biſhop of *Panormum*, and received into the body of the Canon Law, writes thus; *Si quid de quocunque clerico ad aures tuas pervenerit, quod te juſte poſsit offendere, facile non credas, nec ad vindictam te res accendat incognita, ſed præſentibus Eccleſiæ tuæ ſenioribus, diligenter eſt perſcrutanda veritas, & tunc (ſi qualitas rei poposcerit) canonica diſtrictio culpam feriat delinquentis.* Let a Canonicall puniſhment bee inflicted upon the offender for his offence; now what's this *canonica diſtrictio*, or *canonica pœna*? The moſt learned Biſhop *Bilſon*, in that excellent treatiſe of his *De perpetua Chriſti Eccleſiæ gubernatione*. 11. *cap.* interpreting the former words of *Gregory*, doth in theſe very words ſhew, *pœna canonica. i. pœna canonibus congruens.* A canonicall puniſhment that is, a puniſhment agreeable to the Canons; and ſo doth *William Lyndewode* in the 5. booke of his Provinciall. tit. *de Pœnis. Cap. Evenit. verbo. Canonicas. pœna canonica. id eſt. pœna a ſacris canonibus approbata.* A canonicall puniſhment, that is, a puniſhment approved by the Canons. and (k) *Iohanes de vanquall Iohanes Molanus*, and *Archidiaconus*, do all make this the difference betweene a canonicall and an arbitrary puniſhment, that the one is expreſſed in the Canons, the other is not, but left to the diſcretion of the Prelate. *Pœna Canonica dicitur, quæ in Canone & jure eſt expreſſa & determinata: illa autem quæ non eſt expreſſa & determinata a canone eſt arbitraria.*

(k) Iohanes de vanquall in Breviario in ſextum Decretalium. fol 43. tit. de ſupplenda prælatorum negligentia ultima concluſio. Epiſcopum excommunicatum pro culpa ſua punire poteſt Archiepiſcopus pœna canonica et arbitraria. Probatur hic in fine tex. & glo. ſi. et facit. c. de cauſis de offi. deleg. & ſi dicatur puniri debet pœna

Now to recollect the force and ſtrength or this argument; If canonicall houres bee ſo called becauſe they are aſſigned deputed and appointed by the canons, as in the judgement of *Brentius Bellarmine*, and *Petro Soave Polano* they are: and againe if a canonicall puniſhment bee ſuch a puniſhment, as is agreeable to the Canons, ſuch a puniſhment, as is approved of the canons ſuch a puniſhment, as is expreſſed and determined in the Canons, and if not expreſſed and determined in the Canons, not a canonicall but an arbitrary puniſhmniſhment in the judgement of Biſhop *Bilſon*, *William Lyndewode*, *Iohanes de vanquall*, *Iohanes Molanus* and Archidiaconus; Then

arbitraria, tum non canonica. quia pœna canonica dicitur, quæ eſt in canone & iure expreſſa, ut in l. ſiqua pœna. ff. de verbo. ſig. ſolutio. Dicit Io. Mo. & Archid. quod pœna expreſſa & determinata a Canonibus proprie dicitur canonica. ut in dict. lo. Siqua pœna. Illa tamen quæ non eſt expreſſa & determinata a canone, datur tamen ſecundum moderationem canonum, qualitate perſonæ & quantitate culpæ conſideratis, dicitur proprie & completive arbitraria. eo quod iudex ſua diſcretione ſupplet, quod in canone non eſt expreſſum. poteſt tamen talis pœna dici canonica, ſaltem inceptive, & quia per canones dirigitur iudex in moderatione

by

by the ſame analogie canonicall obedience, muſt bee ſuch obedience as is aſſigned, deputed and appointed by the canons, ſuch obedience as agreeable to the canons, ſuch obedience as is approved by the canons, ſuch obedience as is expreſſed and determined in the Canons, otherwiſe it is not canonicall but arbitrary obedience; and this is my ſecond reaſon which being drawne from the joynt conſent of learned men, ought to be of great authority according to this former rule of *Vincentius Lerinenſis, quod ab omnibus, quod ubique, quod ſemper tenetur, illud pro certiſſima veritate habendum & tenendum eſt.*

My third reaſon my Lord, ſtrikes the naile on the head, and drives it home, & it is the very definition of canonicall obedience, delivered by *William Lyndewode*, in the firſt booke of his Provinciall. *tit. de maioritate et obedientia. cap. Presbyteri. verbis. in virtute obedientiæ:* where he doth in the fowrer words *terminis terminantibus*, define canonicall obedience thus. (1) *Canonica obedientia, eſt obedientia ſecundum canones & conſtitutiones rite editas et publicatas*, canonicall obedience is ſuch obedience, as the canons and conſtitutions rightly made and publiſhed doe require. Ratio 3.

Now this mans teſtimony and authority, ought to bee of great eſteeme for divers reaſons; firſt becauſe he is the only gloſſator & commentator upon the provinciall conſtitutions of our Archbiſhops of *Cant.* Secondly, becauſe he was Doctor of both lawes, and ſingulerly verſt both in Church governement, and in deciding of controverſies, and the eſ re doubtleſſe did well underſtand what this canonicall obedience was: and *unicuique in ſua arte perito credendum*: eſpecially if he be not Judge in his owne caſe, as the Defendants againſt mee are. Thirdly becauſe hee was officiall to *Henry Chichley* Archbiſhop of *Cant.* to whom he did dedicate his provinciall; and therefore in all likely hood he would not write any thing therein in the behalfe of the Rectors and Vicars of this kingdome, to the prejudice of the Epiſcopall or Archiepiſcopall authority or Sea of *Cant.* Laſtly, becauſe he lived about 200. yeares ſince, and was long dead before this controverſie was on foote, although this * hath

(1) Nota circa hanc materiam obedientiæ, quod obedientia, quæ homini debetur ab homine, eſt debita minoris ad maiorem reverentia. Vnde ſi mandatur id quod iuſtum eſt, obediendum eſt, ſi in iuſtum, neq; quam, ſi dubium, tunc illud propter bonum obedientiæ eſt explendum. Lyndewode Prov. l. lib. tit. de Conſtitutionibus. cap. Quia incontinentiæ. ver. obedientiæ.

* It began at the Archdeacons Viſitation, Octob. 1624. and continued at his Viſitations Aprill 1625. and 26. and the laſt day of that Aprill 1626. Articles were exhibited in the High Commiſſion againſt me, and the 19. of Aprill 1627. I was by the Commiſſioners committed to priſon, and there continued two yeares, and then being delivered on the 29. of Aprill 1629. I did that Tearme begin an Action in the Kings Bench Court againſt the Commiſſioners, which this 24th day of March 1641. hath depended 12. yeares three quarters.

beene on foot full 16. yeares, which is a larger portion of time, than the tearme of two mens lives is valued at by the common law, and and therefore certainely hee wrote the truth without all respect of persons, without prejudice or partiality on either side, and for these reasons his definition of canonical obedience standes good against all exception.

Besides, that Canonicall obedience is such obedience as the canons require, appeares by the opposite member of the division for the obedience now used in the Church of *Rome*, is either canonicall, that is, such as the canons require, and the Prelate by vertue of the canons may require, or else arbitrary (*m*) that is such as the superiour shall require by his Dictats, whatsoever it be. This the Papists call religious obedience because they make it a part, & a principall part of their religion, to become the servants, yea the slaves of men, contrary to Gods word. 1 *Cor.* 7. 23. *Ye are bought with a price, bee ye not the servants of men*: and we rightly call it blinde obedience, because they that yeeld unto it, have as it were their eyes thrust out and must like blinde men be wholy led by others. But it is properly called arbitrary obedience that is obedience according to the will and pleasure of the superiour.

And as it appeares in the constitutions of the society of Jesus, part 6. chap. 1. *parag.* 1. this arbitrary obedience consists in things (*n*) obligatory and in things not obligatory: and in respect of this latter in respect of things not obligatory, this arbitrary obedience may bee subdivided into obedience, uncanonicall, preternationicall or ultra canonicall, that is besides or beyond the canons, and into obedience anticanonicall or contracanonicall, that is, against or contrary to the canons. And this (*o*) arbitrary obedience as appeares out of the place last cited, is either perfect in respect of execution will and understanding, or else imperfect; perfect obedience in respect of execution, is when the thing commanded is fully done. In respect of the will, when he that obeyes doth will the same thing, that he who commands doth. In respect of understanding

(m) Neque probamus cæcum illud obedientiæ genus, nuper a Iesuitis excogitatum, nempe ut secundum prouerbium, sint cæci cæcorum duces: quo volunt simpliciter & absolute, atque adeo [illegible] inferiores pendere a superioribus, [illegible], ut verbis utar Theodoreti [illegible], verum ut iniquit Chrysost. [illegible] Chamier.

(n) Obedientiam omnes plurimum observare & in ea excellere studeant, nec solum in rebus obligatoriis, sed etiam in aliis; licet nihil aliud, quam signum voluntatis superioris sine ullo expresso præcepto videretur. Constit. societatis Iesu parte. 6. c. 1. parag. 1. (o) Obedientia quod ad executionem attinet, tunc præstatur, cum res iussa completur · quod ad voluntatem, cum ille qui obedit, id ipsum vult, quod qui iubet: quod ad intellectum, cum id ipsum sentit, quod ille; & quod iubetur, bene iuberi existimat. & est imperfecta ea obedientia, in qua præter executionem, non est hæc eiusdem voluntatis & sententiæ inter eum, qui iubet, & qui obedit, Conseusio. Ibidem in declarationibus.

derstanding

derstanding, when there is the same opinion in both, and hee that obeys, thinkes as he that commands doth, and though the thing commanded be fully done, yet if there be not a full consent and conformity of will and opinion both in him that commandes, and in him that obeys, the obedience is imperfect.

And in the same place, my Lord, they give us (p) two emblems of this arbitrary obedience, whereof the one is a dead body, which suffers it selfe to bee carried whether soever and to be handled, howsoever the living will: and the other is a staffe in a mans hand, which is wholy at his service that hath it, and to be used howsoever, whensoever, and in whatsoever, he that hath it pleaseth.

Indeede my Lord, in the same place they interpose (q) a plausible condition, which if it were sincere and truly observ'd, would in a great measure rectifie and iustifie their arbitrary obedience, and that's this, that it is not to bee performed, if the thing commanded appeare to be a sin, but this my Lord is only a Jesuiticall and jugling trick, to glose the matter, and to gull the world, for this condition is contrary to the two former embles of Arbitrary obedience, for can a dead body or a staffe discerne what is sinfull or whether they be lawfully or unlawfully used? It is contrary to the name and nature of blind obedience, whereby as they there say, wee must renounce and deny our owne opinion and contrary judgement. It is contrary to the third condition of perfect obedience, which requires that there bee a full conformity of minde and opinion both in him that commands, and in him that obeyes. And lastly, it is contrary to the practise of the Jesuites, who require and performe obedience not onely in things, that are and appeare sinfull, but also in things that are and appeare grossely, palpably and transcendently wicked, as I shall presently shew.

And they doe derive this arbitrary obedience, and the two parts and kinds thereof, uncanonicall and an anticanonicall from the words of (r) *Samuell* unto King *Saul*, rebuking him for sparing *Agag*, and the best of the cattell, contrary to the commmandment of the Lord, under pretence to offer sacrifice to the Lord. 1 *Sam.* 15.

(p) Et sibi quisque persuadeat, quod qui sub obedientia vivunt, se ferri ac regi a divina providentia per superiores suos sinere debent, perinde ac si cadaver essent, quod quoquo versus ferri, & quacunque ratione tractari se finit vel similiter atque senis baculus, qui ubicunque & quacunque in re velit eo uti, quicum manu tenet, ei inservit. Ibidem in constitutionibus.

(q) Sancta obedientia tum in executione, tum in voluntate, tum in intellectu sit in nobis semper omni ex parte perfecta; cum magna celeritate, spirituali gaudio, & perseverantia, quicquid nobis iniunctum fuerit, obeundo: omnia iusta esse, nobis persuadendo, omnem sententiam ac iudicium nostrum contrarium caeca quadam obedientia abnegando; & id quidem in omnibus, ubi definiri non possit, quemedmodum dictum est, aliquod peccati genus intercedere.

(r) Greg. the seventh produceth Samuell to prove, that it is Idolatry and Infidelity to disobey the Pope. He that will not obey this most wholesome precept of ours (forbidding Priests

Priests their wives under colour of fornication) incurreth the sinne of Idolatry, as Samuell witnesseth, not to obey is the sinne of witchcraft, and not to be content, is the wickednesse of Idolatry. Distinct. 81. Si qui sunt. What said Samuell more of God, than the Pope here applieth to himselfe. Bishop Bilson in his true difference betweene Christian subiection and unchristian rebellion. second part pag. 231. 1 King. 20.32.33.42. Ipse prorex sive papa etiam solus sine concilio quæcunque ad reipub. Statum pertinent, decernit, eique non secus ac regi ipsi Christo, omnes dicto audientes esse oportet. Gasper scioppius in his Ecclus. cap. 55.

22. *Hath the Lord saith Samuell, as great pleasure in burnt offerings and sacrifices as when the voyce of the Lord is obeyed? Behold, to obey is better then Sacrifice, and to hearken is better than the fatt of rammes: for rebellion is as the sinne of witchcraft, and transgression is wickednesse and idolatrie.*

In which wordes my Lord, as God require, that his word be taken, first for a law, secondly for an universall law or a law in all thinges, and thirdly for a law of that authority, that if he command any man to kill a man, yea a King, the cheife of men, and Gods immediate deputy, he must doe it, and if he doe it not, hee sinnes greatly, which was *Sauls* case here. So doe the defenders of this arbitrary obedience, strive in these three thinges, to be *similes altissimo*, to be very Gods. First they wil have their bare word to be taken for a law, secondly for an universall law, or law in all thinges, and thirdly for a law of that authority, that if they bid kill a man, it must be done by them that are under their jurisdiction.

And this appeares my Lord, by a plea or argument, stiled the arraignement of the whole society of the Jesuites in *France*, made in the Court of Parliament in *Paris*, the twelfth and thirteenth of *July* 1594. by *Master Anthony Arnould* Counsellour for the Universi ty of *Paris* against the Iesuites: wherein he shewes, that the Jesuites fourth vow is to obey their generall *ubique & in omnibus*, every where and in all thinges and he further addes, that the wordes of their fourth vow are. that they must acknowledge Jesus Christ present as it were in their generall, and that if Jesus Christ should command them to goe and (s) kill they must doe so. And to this purpose *Ignatius Loyola* in his *Epist. de virtute obedientiæ. sect.* 18.

(s) There are above 3000. persons that know that Common Preaching at Christmas last in Saint Bartholomewes Church, tooke for his theme the third chap. of the booke of Iudges, where it is reported. that Ehud slew the King of Moab, and scaped away, and after he had discoursed at large upon the death of the King, and exalted and placed amongst the Angels, this Tyger, this Devill incarnate, Iames Clement, he fell into a great exclamation: we have neede of an Ehud, we have neede of an Ehud, were he a Frier, were he a Souldier, were he a Lackey, were he a sheapheard, it made no matter: needes we must have an Ehud, one blow would settle us fully in the state of our affaires, as we most desire The Arraignement of the whole society of the Iesuites. fol. 12.

gives

gives his Disciples the Jesuites this one generall rule of obedience (t) *Statuere debetis vobiscum, quicquid superior præcipit, ipsius Dei præceptum esse & voluntatem* &c. You must resolve with your selves, that whatsoever the superiour commands, is the very precept and will of God himselfe and as you betake your selves with a full mind and assent to beleeve those thinges, which the Catholicke faith proposeth: so be ye carried with a blind zeale and an obedient will, to doe all thinges, which the superiour shall say, without making any question or disquisition at all, for so *Abraham* is thought to have done, being commanded to offer his sonne *Isaac*. & in the twentieth section of his former *Epist. Ignatius Loyola* adds, (u) *Quæ de obedientia diximus &c.* Those thinges which we have said concerning obedience, are equally to be observed by private men towards their next superiours, by inferiour governours and Rulers of severall places, to their provincialls, by provincialls to their generall, and by the generall to him, whom God hath set over him, namely to Gods Vicar on earth.

(t) Statuere debetis vobiscum, quicquid superior præcipit, ipsius Dei præceptum esse & voluntatem atque ut ad credenda quæ Catholica fides propo-nit, toto animo assensuque vestro stat im incumbitis, sic ad ea facienda, quæcunque superior dixerit, cæco quodam impetu voluntatis parendi cupidæ, sive ulla prorsus disquisitione ferimini. Sic egisse credendus est Abraham filium Isaac immolare iussus. Mysteria Patrum Iesuitarum. pag. 62.

(u) Quæ de obedientia diximus, æque privatis erga proximos superiores, atque rectoribus præpositisque locabus erga Provinciales, Provincialibus ergo gralem, gralidenique erga illum quem ipsi præfecit Deus, nempe suum in terris vicarium observanda sunt. Ibidem, Pag. 71.

Here then my Lord, we have now the full extent of this religious, irreligious, blind, detestable, damnable, devillish obedience in two respects; in respect of the persons, to whom it is due, and in respect of the nature of the thing it selfe. In respect of the persons to whom it is due, it is to be given by every inferiour to every Ecclesiasticall superiour, In respect of the nature of the thing it selfe, it is a generall and universall obedience to all their commands whatsoever. And if we looke a little more perticularly and narrowly into it wee shall find, that they extend it sometimes to thinges fond & frivolous sometimes to thinges ridiculous and absurd and sometimes to thinges wicked and ungodly.

First to thinges fond and frivolous; an instance hereof we have in *Anselmus* Arch-bishop of *Cant.* who after he was bishop of that See, wrote to Pope *Vrban* to appoint him some man, according to whose commands he might frame his whole life, and Pope *Vrban* appointed him *Edmerus*, and as *Malmesburien.* in his first booke *de gestis pontificum Anglorum* in the life of *Anselmus* saith, the Arch-bishop did so much esteeme the command of *Edmerus*, that being in bed, he would not so much as rise, nay he would not so much as turne himselfe a *latere ad latus*, from one side to the other, *sine præcepto Edmeri*, unlesse *Edmerus* first commanded him, and herein the Arch-bishop shewed himself: a true patterne & a lively portraiture of blind obedience. For *Cæca obedientia*

dientia est, ut quis sit tanquam corpus exanime, quod requiescit ubi quis reposuerit, sine motu. This is blind obedience, that a man be like a dead body, which rests where it is laid, without motion untill it be stirred, as my late Lord of *Ely* Bishop *White* in his explanation of the Orthodox faith and way, cap. 3. parag. 13. shewes.

Secondly, they extend it to thinges ridiculous and absurd. *Ethelwold* the *Abbot* of *Abington* having set workemen to repaire the Abbey, charged one of his *Monkes* called *Elstan*, to see their diet well prepared for them. Thereupon the Monke betakes him into the Kitchin, makes it cleane, trimmes up the vessels, and prepares meat for the workmens dinner, a little before dinner, the *Abbot* comes into the kitchin and finding the Monke busie in preparing meate for the workemens dinner, askes him, what his meaning was? The Monke answers, that he was yeilding obedience to his command: the Abbot replied, that he gave him no such command, he commanded him only to over-see others, not to doe those thinges in his owne person, yet he told him, that he had done well to let his obedience outstrippe his command, but added withall that his obedience was not yet perfect: if he would have his obedience perfect indeed, the Abbot bid him thrust his naked arme into a great seething pot full of meat & pull out the lowest peece of meat, that was in the pot and added, that if the scalding liquor did not hurt his naked arme, then his obedience was perfect indeed, *Malmesburiensis* in his second book *de gestis Pontificum Anglorum* in the life of *Elstan*, saith that the Monke did doe so, and his hand and arme received no harme and thereby as by a miracle his obedience was knowne to be perfect indeed.

In the third place they extend it to thinges wicked and ungodly, *Cardinall Bellarmine de Pontifice Rom. lib. 4 cap. 5.* tells us, that if (x) the Pope should so farre forth erre as to command vices, and to forbid vertues, the Church were bound to beleeve, that vices are good and vertues are evill unlesse she will sinne against her owne conscience: and *Cardinall Cusanus excitat. lib. 2. Serm. 2. & excitat. lib. 6. serm. super respice domine de cælo, & vide*, requires every man to yeild both implicite faith & blind obedience, not onely to the Popes erronious doctrine, but also to the erronious doctrine of his own prelate, and that without any further search

(x) Si autem Papa erraret præcipiendo vitia, vel prohibendo virtutes, teneretur Ecclesia credere vitia esse bona, et virtutes malas, nisi vellet contra conscientiam peccare.

or

or inquiry after the truth. (y) how ſtrong, ſaith he, is the building of the Church: for no man can be deceiued, no not by an evill prelate. If thou ſay unto God. O Lord, I have obeyed thee in my prelate, this ſhall ſuffice thee unto ſalvation, for thou canſt not be deceived by thine obedience, which thou yeildeſt unto thy prelate, whom the church ſuffereth, though he command thee other thinges, than he ought to doe, for the Church preſumeth his ſentence to be good, which ſentence if thou obey, thy reward ſhall be great. *Obedientia igitur irrationalis eſt conſummata obedientia & perfectiſsima.* Therefore ſaith hee, obedience unreaſonable, obedience without reaſon blind obedience is conſummate and moſt perfect obedience, that is, ſaith he, when thou obeyeſt thy prelate without ſeeking a reaſon, even as an horſe obeyeth his Maſter.

(y) Quam firma eſt ædificatio eccleſiæ? quia nemo poteſt decipi etiam per malum præſidentem, ſi dixeris domine obedivi tibi in præpoſito, hoc tibi ſufficiet ad ſalutem. Tu enim per obedientiam, quam facis præpoſito quem eccleſia tollerat, decipi nequis, etiamſi præceperit alia quam debuit: præſumit enim eccleſia de illa ſententia, cui ſi tu obedieris, magna erit merces tua. Obedientia igitur irrationalis eſt conſummata obedientia & prefectiſsima, ſcil. quando obeditur ſine inquiſitione rationis, ſicut iumentum obedit domino ſuo.

Suppoſe now my Lord, that the Pope ſhould teach the Church, and the Biſhop ſhould teach thoſe of his dioceſſe and the generall of the Jeſuites, ſhould teach thoſe of his order, not ſuch doctrine, as Swarez teaches, that it is lawfull for any man actually to depoſe, and kill a King by the Popes ſentence, Firſt excommunicated, depoſed, and deveſted of his Subjects allegiance and fealty: But ſuch doctrine, as * Varade Principall of the Jeſuites in *France* taught *Barriere*, namely, that to murder *Henry* the fourth of *France*, though a Catholique, and not excommunicate, was a meritorious worke, and that for that deed hee ſhould goe ſtraight unto Paradiſe: or that to murder any other good King, good Magiſtrate, good man, is a meritorious worke, and that for that deed, hee that doth it ſhall goe ſtraight unto Heaven: In this caſe according to this doctrine, what were the Church, the Biſhops ſubjects, and the Jeſuites bound to doe, onely *vi mandati, & virtute obedientiæ*, without any reference to thoſe manifold ſubtilties, diſtinctions, and ſubdiſtinctions in the Jeſuites King-killing doctrine? why, the Church ſaith *Bellarmine* it tied in conſcience, to beleeve and obey the Pope, though he teach vertue to be vice, and vice to be vertue, otherwiſe ſhe ſinnes againſt her conſcience. The Biſhops ſubjects muſt obey him, without requiring a reaſon, as an horſe, having a bridle on his head, followes his Maſter, and this ſaith Cuſanus is perfect obedience, and after the fact is done, if they ſay unto God, O Lord, wee have obeyed thee in our prelate, they have every one his *quietus eſt*, this ſhall ſuffice them unto ſalvation, nay their reward ſhall be great. And the Jeſuites, even by their vow, are bound to obey their generall, even as Jeſus Chriſt himſelfe, *mique*

*Defens. fidei. lib. 6. cap. 6. myſteria patrum Ieſuit. p. 159. 160. 161.

*Mr. Anthony Arnoulds plea. pag. 11. 12

ubique & in omnibus, every where and in all thinges, yea when he commands them to kill and murder.

(z) Generalis præpositi nostri decreto, quod ego tanquam mandatum cælitus missum, & a Christo ipso sanctum veneror, Praga Romam, ubi Generalis nostra perpetua sedes est, Roma deinde in Angliam contendi. Campian.

And hereupon *Campian* in that one of his three (z) *Epist.* prefixed before his ten reasons, directed to Queene *Elizabeth* the counsell, saith that he came over into England, *iussu sui Generalis, tanquam iussu ipsius Christi*, at the command of his generall, as at the command of Christ himselfe, and what to doe? Even by his owne confession, as Sir *Edward Coke* in *Caudreys* case saith, to make a party for the Catholicke cause, that is, to withdraw the Queenes subjects from her allegiance and to reconcile them to the Church of *Rome*, which as Sir *Edward Coke* there saith, is treason and punishable with death by the common lawes of the Land.

And if any will further see the fruites and effects of this arbitrary and blind obedience, let him cast his eyes upon *Felton* at the command of *Pope Pius Quintus* setting up upon the Bishop of London his gates, an excommunication against his owne Soveraigne Queene *Elizabeth* that peereleſſe Lady. Let him cast his eyes upon *Iacob* Clement murdering King H. the 3. upon *Francis Ravaillac* murdering King *Henry* the fourth both of *France*.

And lastly upon the Gun-powder treason plotted and contrived by the advice and approbation of *Henry Garnet*, superiour of the Jesuites here in *England*, and of *Oswold Tesmond*, *John Garrard* and other Jesuites, as appeares by the 2. of the third of *Iames*.

And this is the reason my Lord, that such monstrous impieties, and such matchleſſe villanies, are done by the inferiour at the command of the superiour in the Church of *Rome*, & not in the Church of *England*, because the Church of *Rome* doth approve and embrace arbitrary and blind obedience, and the two parts and kinds thereof, uncanonicall and anticanonicall, and extends it, to thinges fond and frivolous, ridiculous and absurd, yea wicked and ungodly, which the Church of England doth utterly reject, and contents her selfe with Canonicall obedience onely, that is, with such obedience as the canons require.

For as Bishop *Bilson* in his forcited treatise, *de perpetua Christi. Ecclesiæ gubernatione*, saith, In our Church, *metropolitani & diœcesani, scriptis in quaque re legibus diriguntur*: and againe in our Church, *minime sibi sumunt diœcesani ut diœcesibus suis leges constituant, quod tamen presbyteriis vestris in qualibet paræcia licere contenditis*, He speakes against the Presbyterians, *sed ut quas pii principes & concilia rite celebrata decreverint, executioni mandari*

mandorisfaciant, And thereupon afterwards he calls the Bishops of our Church, in their severall jurisdictions, *custodes non conditores canonum*; which wordes of his, doe fully approve of canonicall obedience, and utterly exclude all arbitrary and blind obedience out of our Church. And so my Lord, by the definition both of canonicall and arbitrary obedience it appeares, that Canonicall obedience is such obedience, as the canons require, and if it exceed the Canons never so little, it is no longer Canonicall, but arbitrary.

My fourth reason to proye that canonicall obedience, is such obedience as the canons require, is in my apprehension of more strength and force, than the three former, and it is taken from the 19. and 21. *chaps. of* 25. *of Henry* 8. which acts doe so limit and confine the Clergy of this land unto the canons, either made by a provinciall synode in this land, and confirmed by his Majesties letters patents out of his prerogative royall, or else made beyond sea, and received here for lawes of this land, by the Kings sufferance, and the subjects free consent and usage, that none of the Clergy in their severall jurisdictions, can goe beyond those canons, without incroaching upon the supreme Ecclesiasticall jurisdiction of the Crowne: and therefore the Canonicall obedience approved and required in our Church by the oath of canonicall obedience, must of necessity be such obedience, as those canons require, because the superiour clergy cannot out of command require more, nor the inferiour clergy out of obedience yeild more, without prejudice to the Kings supreme Ecclesiasticall jurisdiction. 4th Reason

This will appeare most evidently, by the first of the first of *Eliz.* by the 19. and 21. chap. of the 25. of *Henry* 8. and by the oath of supremacy. The first of the 1. of *Elizabeth* is an act to restore unto the crowne, the ancient jurisdiction over the state Ecclesiasticall and Spirituall; then the crowne hath a jurisdiction and an ancient jurisdiction over the state Ecclesiasticall. And as the first of the first of *Eliz.* doth shew, that the crowne hath an ancient jurisdiction over the state Ecclesiasticall: so the 19. and 21. chap. of the 25. of *Henry* 8. both revived in the first of the first of *Elizabeth*, as parts of that ancient jurisdiction of the crowne over the state Ecclesiasticall, doe shew, how farre that ancient jurisdiction of the crowne doth extend over the state Ecclesiasticall and they doe extend it, over the whole clergy, and to mit the whole clergy unto it, in these two points or respects.

Firſt concerning canons made beyond ſea, and then concerning canons made in this land. Concerning canons made beyond ſea, they ſo farre ſubmit the whole Clergy unto the prerogative royall and ſupreme jurisdiction of the Crowne, that none of the clergy in their ſeverall jurisdictions, can execute or put in uſe, any ſuch forreine canons untill thoſe forreine canons are firſt received heere for lawes of this land, by the Kings ſufferance and the Subjects free conſent and cuſtome.

Secondly among the canons in this land formerly made, they abrogate all ſuch canons, as are contrary, either to the ſupreme jurisdiction of the Crowne, or to the ſtatutes, cuſtomes or common lawes of this land, and approve and eſtabliſh all the reſt, untill they be otherwayes ordered and determined by the 32. perſons there mentioned, and then concerning canons hereafter to be made in this land, they ſubmit the whole clergy unto the ſupreme jurisdiction of the crowne in theſe foure particulers.

The firſt particuler is, that the Clergy cannot make any canons in their ſeverall jurisdictions, but onely when they meete in a provinciall ſynode.

The ſecond particuler is, that they cannot meete in a provinciall ſynode, untill they be firſt call'd thither by the Kings writ.

The third particuler is, when the clergy are ſo met, being ſo call'd, and have made canons, that they cannot execute or put in uſe, nay they cannot promulge, or publiſh any one of theſe canons, untill thoſe canons are firſt confirmed by his Majeſties letters patents out of his ſupreme Eccleſiaſticall jurisdiction.

And the fourth particular is, that ſo farre they may goe, further they cannot.

And then in the third place, comes the oath of ſupremacy, and that binds every Biſhop, every judge, every Clergie-man, and every other perſon that hath taken that oath, to defend and maintaine all thoſe foreſaid particulers, of the prerogative royall of the crowne over the whole Clergy. For the laſt clauſe of that oath bindes every one that takes it, (a) *to the utmoſt of his power*, to defend and maintaine all jurisdictions, priviledges, preheminences and authorities united, or annexed to the imperiall Crowne of this realme. So that if any of them ſhall extend canonicall obedience, or the

(a) The words of the oath, are to his power: but they are ſo interpreted by the right Honorable Thomas Earle of Arundell and Surrey, Earle Marſhall of England, and Generall of his Maieſties forces in his treatiſe ſtiled: Lawes and Ordinances of warre, pag. 26. where he expounds the former wordes by theſe, even to the utmoſt of my power and hazard of my life.

oath

oath of canonicall obedience, or the archidiaconall, Episcopall, or Archiepiscopall jurisdiction, by vertue of canonicall obedience, or of the oath of canonicall obedience, beyond those canons; he doth incroach upon the prerogative royall of the crowne, withdraw his submission from his Maiesty, presume to make canons within his owne jurisdiction, violate the oath of supremacy, transgresse the first of the first of *Elizabeth* and the 19. of the 25. of *Henry* 8. and is therefore by that statute, liable to be fined and imprison'd at the Kings pleasure. And so my Lord, I have by foure reasons proved, that the canonicall obedience in force in our church, is such obedience, as the canons in force in our church doe require, and that all arbitrary and blind obedience is quite excluded, as a thing utterly repugnant to the word of God, to the doctrine and discipline of their orthodox church, to the supreme jurisdiction of the crowne, and to the ancient and just libertie and freedome of every freeborne Subject.

And now my Lord by one syllogisme grounded upon this canonicall obedience I will acquit my selfe and all other, incumbents from preaching the visitation Sermon, and shew that every visiter, every Arch-deacon, Bishop and Arch-bishop is bound to preach his owne visitation Sermon, and both these by vertue of canonicall obedience, so that these two wordes, which the defendants have abused to acquit themselves, and condemne me, being rightly understood, shall condemne them and acquit me, and this is the syllogisme.

(*b*) Canonicall obedience is such obedience as the canons require.

But the canons bind every visiter, every Arch-deacon Bishop, and Arch-bishop to preach his owne visitation Sermon, licensed preachers to preach at their owne cures onely, and forbid me, and such as I am, that are not licensed preachers, to preach and expound any Scripture in our owne cures, or ellewhere.

Ergo by canonicall obedience every visiter, every Arch-deacon, Bishop and Arch bishop &c.

The Major or first proposition, that canonicall obedience is such

(b) Iudge Dodridge in his English lawyer saith, although the common lawyers of this land, do use a continued speech & non concisis argumentis, yet do they observe very oft the formes of arguments, used in the schooles, as syllogismes, enthimems, inductions, examples, sorites, dilemmaes &c. as may be proved by sundry instances, and first of syllogismes in Shellies case, In Calvins case.

obedience

obedience as the canons require, hath formerly beene proved by foure reasons, and therefore that cannot justly be denied, until those foure reasons are first answered and confuted; and it is contrary to the rule of Logick, yea and of law too, to deny the conclusion before the premisses are confuted: so that all the question is concerning the Minor. That hath three parts, the first is, the canons

Thesis 4.

Thesis 5.

Thesis 6.

binde every visiter, every Archdeacon Bishop, and Archbishop to preach his owne visitation Sermon. The second is, the canons bind licensed Preachers to preach at their owne cures onely. The third is, the canons forbid me, and all such as I am, that are not licensed Preachers, to preach or expound any Scripture in our owne cures or elsewhere. And these three being provd, it will bee evident, that every visiter, and hee onely, and that by canonicall obedience, is bound to preach his owne visitation Sermon, and I will now prove these three in order one after another, beginning at the first: That

Thesis 4. probatio.

that the canons bind every visiter, every Archdeacon, Bishop, and Archbishop, to preach his owne visitation Sermon.

Amongst the Canons the word of God hath the prime place: for that is canon *Canonum, lex legum, regula regularum*: and that yeelds us three arguments, to prove that every visiter every Archdeacon, Bishop and Archbishop, is bound to preach his owne visitation Sermon.

Argument 1:

My first Argument is taken out of the first Epistle of Saint *Peter*, 5. chap. 2. verse, where Saint *Peter* chargeth all his compresbyters, to feede every one his owne flocke. Feede saith hee, the flocke of God, τὸ ἐν ὑμῖν, which is amongst you, which is committed unto you, or which dependeth on you: that is, as Saint *Paul* expounds it, *Acts* 20. 28. whereof the holy Ghost hath made you overseers, whence I thus argue.

Every flocke is to be fed *ex officio, ex debito*, by that pastor to whose charge it is committed.

But the incumbents, curates, Churchwardes, Sidemen, and the rest by the visiters authority, assembled at the visiters visitation, are there committed to the visiters charge, and not to any of the incumbents charge there present. *Ergo.*

They are there to be fed *ex officio, ex debito*, by the visiter, and not by any of the incumbents there present.

The Major, or first proposition, that every flocke is to be fed *ex officio, ex debito*, by that pastor, to whose charge it is committed, is the plaine, evident, and expresse word of God in the places before allea-

alleadged, and therefore that cannot be denied without manifest injurie and violence to the Word of God in the places before alleaged.

The Minor or second proposition, that the Incumbents, Curats, Churchwardens, Sidemen, and the rest by the visiters authority, assembled at the visiters visitation, are there committed to the visiters charge, and not to any of the incumbents charge there present, is likewise evident: for the visiter calls them thither, if they come not, he punisheth them, if they come, hee examines them, if they depart before he dismisseth them, he cites them againe. And the visiter, if he be a (c) Bishop is *rector totius Diœcesi*, and hath *curam animarum* over them whom he visits.

And if he be an Archdeacon, then he is *oculus Episcopi*, to observe them, *manus Episcopi*, to governe them, to reward and punish them, *lingua Episcopi*, to instruct and teach them, and *vicarius Episcopi*, to doe them all for the Bishop, for *vicarius tenetur implere vicem eius, cuius est vicarius*, and he likewise under the Bishop hath *curam animarum* over them, whom he doth visite as these texts of law shew; *Decretal. lib. 1. tit. 6. de electione Cap. 7. Inferiora etiam ministeria, utpote decanatum, Archidiaconatum, & alia quæ curam animarum habent annexam.* And upon these words the glosse notes. *Et est verum, quod Archidiaconus qui habet inquirere & visitare parochiam suam, curam habet animarum.* And againe, *eodem lib. tit. 23. de officio Archidiaconi, Cap. 1. Vt Archidiaconus post Episcopum, sciat se vicarium esse eius in omnibus, & omnem curam in clero, tam in urbe positorum, quam eorum, qui per parochias habitare noscuntur, ad se pertinere, sive de eorum conversatione, sive honore & restauratione ecclesiarum sive doctrina Ecclesiasticorum, vel caterarum rerum studio, & delinquentium rationem coram Deo reddituros est.* And againe, *Cap. 7. cum super his i.e. super clericis & ecclesiis eorum, sit reddituros rationem in districti examinis iudicio.* and so both propositions are prov'd, and therefore the conclusion, following directly upon the premisses, must needes bee true.

(c) Lyndewode Provinc. l. 4. tit. de clandestina desponsatione. cap. Humana concupiscentia. verbo. diœcesanorum qui, cum habeant curam in solidum per totam diœcesin, possunt licentiam de qua sequitur, concedere vbique per totam diœcesin. Pr. lib. 5. tit. de Hæreticis cap. Reverenditsime. v. Diœcesano. Paulus. dicit, quod epus loci vel superior prælatus sacerdotis, maiorem gerit curam in ecclesia, quam curatus, & allegat ad hoc de pœ. & re. c. si epus. l. 6. vide Pr. lib. 5. tit. de pœ. & re. c. In confessione verb. Non recipiautur.

My second argument is taken out of the 10. Chapter of Saint *Lukes* Gospell, 7. *vers.* From these wordes of our Saviour. The labourer is worthy of his hire, which is true e converso. He that hath the hire, is bound to performe the labour, and the canon law doth approve of the rule both wayes: *Qui sentit onus, debet sentire & commodum, & qui sentit commodum, debet sentire & onus, inter* Argument 2.

regulas

regulas iuris regula 55. Now the labour of the visitation, is to correct and preach, else why am I fin'd, imprison'd, depriv'd, degraded, and excommunicated, for refusing to preach a visitation sermon: and the hire for that labour, is procurations, and both these appeare by the definition of *Procurations*. *Decretalium lib.* 1. *tit.* 23. *de officio Archidiaconi cap.* 10. *Est procuratio necessariorum sumptuum exhibitio, qua debetur prælatis, diœcesim seu subditos visitantibus*, and every Arch-deacon, Bishop, and Arch-bishop confesseth as much. For alwayes before *Easter* in their processe, they cite us to appeare at their next visitation, and there to pay unto them, *procurationes sibi ratione visitationis debitas, procurations* due to them, for visiting, that is, for preaching, and correcting, saith the Canon Law. Procurations, there is the hire of the visitation. due for visiting, that is for preaching and correcting there is the labour or worke of the visitation. So that the visiter and he onely, and that by the rule of naturall equity, is bound to preach his owne visitation Sermon, because he receives his procurations of the incumbents for that worke: whence I thus argue.

Whosoever receives the hire of the visitation, which is procurations, he is bound to performe the labour of the visitation, which is to preach and to correct.

But every visiter, every Arch-deacon, Bishop, and Arch-bishop, receiveth the hire of the visitation, namely procurations, Ergo.

Every visiter, every Arch-deacon, Bishop, and Arch-bishop, is bound to performe the labour of the visitation, to teach and to correct, to preach and punish.

That procurations are the hire of the visitation, and that the labour of the visitation is to preach and to correct, and that every visiter receiveth that hire, for visiting, these three are without all question, all the question is, whether to visite, bee to preach and to correct. and that will I prove most plentifully, when I come to the canon law; I onely suspend the proofe thereof, untill I have alleaged my third and last argument out of the word of God.

Argument 3. Which is taken out of the first *Epistle* of Saint *Paul* to *Tim.* 3. *cap.* 1. v. out of these wordes; This is a true saying, if any man desire the office of a Bishop, he desireth a worthy worke. In which wordes Saint *Paul* admonisheth Bishops, not to make a divorce betweene their office and their worke, not to take to themselves,

the

the dignity and profit of their office, and to cast the labour, and worke upon others: but to joyne them both together, and in their owne persons, as well to doe the worke, as to desire the calling: And this doth analogically bind all others, of what calling soever they be, to joyne the office and worke both together, according to that of the same Apostle Rom. 12. 7. εἴτε διακονίαν, ἐν τῇ διακονίᾳ. Let him that hath an office, waite on his office: whence I thus argue.

Whosoever hath desired, whatsoever hath obtained the office of a visiter, he is bound to desire, he is bound to performe, the worthy worke belonging to that office, namely to teach, and to correct.

But every Arch-deacon, Bishop, and Arch-bishop hath desired, hath obtained the office of a visiter: Ergo. Every Arch-deacon, Bishop, and Arch-bishop is bound to desire, is bound to performe the worthy worke belonging to that office, namely to teach and to correct, to preach and punish.

The onely thing questionable in this syllogisme, is that which was questionable in the former, namely, whether to teach and to preach be the visiters worke at the visitation, and that being proved, then by the former argument, every visiter is tied to desire it, and doe it in his owne person, or by some other lawfully procured. For *quod quis legitime facit per alium, idem est ac si faceret per se.* And I will now prove that, the visiters duety, so evidently out of the Canon law, that no man shall doubt of it, & so my two last arguments out of the word of God shal stand good against all exception.

Lyndewode in the first booke of his Provinciall, tit. *de officio Archidiaconi cap.* 1. sets downe this canon, made by *Steven Langhton* Arch-bishop of *Cant.* about 400. yeares since.

Ut Archidiaconi secundum Apostolum, non quæ sua sunt quærant, sed quæ sunt Iesu Christi: in sua visitatione provideant, quod canon missæ emendetur, & quod sacerdotes, rite noverint proferre verba canonis & baptismatis, & quod in hac parte sanum habeant intellectum. Doceant quoque laicos, in qua forma baptizare debeant, ut saltem hoc faciant aliquo idiomate.

This Canon binds the Archdeacon, to teach the Clergy and Laity at his visitation: and what must he teach them? why, hee must teach the Clergie, how to pronounce the words of the canon of Masse and of Baptisme, and the Laity how to baptise in some tongue: and where were the Clergie and Laity to doe these things? In their owne Parishes, not at the visitation. So that by this canon, the Archdea-

con is bound, to teach the Clergie and Laity at the visitation, how to doe their owne duties, at home in their owne Parishes, not how to doe his duty at the visitation. And that all this is the Archdeacons duty, it is evident by the title of the canon, It is *de officio Archidiaconi*. The text is plaine, *Lyndewodes* glosse makes it plainer, for upon these words, *ut sacerdotes in hac parte sanum habeant intellectum*, *Lyndewode* gives this glosse.

Sanum intellectum, i. *fidelem intellectū sive Catholicum: & ex hoc apparet, quod in Archidiacono requiritur Scripturarum scientia: quomodo namque posit in aliis canonis missæ, verborum baptismatis sanum intellectum exquirere, nisi ipse prius eadem sano sapuerit intellectu? Nam non convenit talem aliis præsici in magistrum*, Good my Lord marke this, *non convenit talem aliis præfici in magistrum, qui nondum se noverit esse discipulum*. By which words it is evident, that the Archdeacon is made a teacher, an instructer, a Doctor to the incumbents, and they Disciples, Schollers, and hearers unto him, and therefore he is *ex debito ex officio*, to teach and to Preach unto them at his visitation, and not they unto him.

From the provinciall constitutions of our Archbishops of *Cant.* I proceed to the Legantine constitutions of this Kingdome, & amongst them I finde this canon or constitution made by *Otho* the Popes legate, tit. *de septem sacram. i. Sacram. Ecclesiast. parag. statuimus.*

Statuimus quod in susceptione curæ animarum, & ordinis sacerdotii, examinentur de sacramentis præcipue, ordinandi. Archidiaconi quoque in singulis Decanatuum suorum conventibus, sacerdotes, in his *studeant erudire, docentes eos, qualiter circa baptismum, eucharistiam, matrimonium, panitentiam se habere debeant.*

This canon likewise bindes the Archdeacons at their visitation, to teach the incumbents, how to carry themselves in administring the Sacraments, which are to bee administred by them, in their owne Parishes, to their owne people, and not at the visitation to strangers. So that by this canon also, the Archdeacons are bound at their visitation, to teach the incumbents, how to doe their owne duties at home in their owne cures, not how to doe the Archdeacons dutie at the visitation. And which is especially to be observed in this canon, the Archdeacons are here bound to teach the incumbents *in singulis decanatuum suorum conventibus*, at every meeting of the Deaneries, at every visitation, and therefore the incumbents are not bound to teach the Archdeacons, or one another at any visitation.

Againe among Othos legantine constitutions tit. *de Archidiaconis & Archi. quoque. par. sint sollicit.* I find this canon or constitution.

Sint

Sint ſolliciti Archidiaconi, frequenter intereſſe capitulis per ſingulos decanatus: In quibus diligenter inſtruant inter alia ſacerdotes, ut bene vivant, ut ſciant & ſane intelligant verba canonis & baptismatis.

This Canon alſo bindes the Archdeacons at their viſitation, to teach the incumbents, and that frequently, carefully, and diligently, both how to leade their lives, and how to diſcharge their cures. And *Iohanes de Athona* in his gloſſe, ſhewes as much, & withall ſhewes, how the Archdeacons did then neglect that duty, and why, even becauſe it brought no profit with it.

Theſe are his very words upon the laſt text: *Hic textus requiquirit ſollicitudinem & diligentiam in Archidiaconis. Hæc tamen conſtitutio perraro ab Archidiaconis ſervatur, quia lucrum pecuniarium, eis inde non applicatur.* And this is alſo the reaſon, my Lord, that our Archdeacons, Biſhops & Archbiſhops violate theſe conſtitutions, which bindes them to preach their owne viſitation Sermons, and inforce that duty upon the incumbents, becauſe it is for their profit and eaſe ſo to doe.

But if either profit or eaſe, my Lord, would have prevailed with the Archdeacon, this controverſie concerning Preaching the viſitation Sermon, had never beene betweene him and me: for in his plea, the fourth Article hee confeſſeth, that I offered him two or three peeces, that is, by his owne interpretation, forty ſhilling or three pounds, to procure one to preach the viſitation Sermon: ſo that if he would have Preached that Sermon himſelfe, he might have had a rich reward for his owne paines, in doing his owne worke: or if he would not, he might with part of the reward, have procured another to have preached it, & ſo he might have had both profit and eaſe. But his ſpleene againſt me was ſo great, that hee would not accept of either, but preferred a moſt unjuſt warre, before a moſt juſt peace, and ſo *quod peſſimorum eſt ingeniorum*, hee hath rewarded me evill for good, and hatred for my good will.

From the provinciall and legantine conſtitutions of this Kingdome, which are as it were an epitome, or breviat of the whole body of the canon law, I proceed to the body of the canon law it ſelfe, and there in the Decretals 3. booke. 39. *tit. de Cenſibus &c. cap.* 23. *parag. porro*, I find this canon or conſtitution.

Porro viſitationis officium exercentes, non quærant, quæ ſua ſunt, ſed quæ ſunt Jeſu Chriſti, prædicationi & exhortationi, correctioni & reformationi vacando, ut fructum referant, qui non perit.

The firſt thing, my Lord, to be inquired into, in this canon, is, who theſe viſitationis officium exercentes are? The former part of the canon ſhewes, that they are Arch-deacons, Biſhops, and Arch-biſhops: what are they to doe at the viſitation? non quærant, quæ ſua ſunt, ſed quæ ſunt Jeſu Chriſti: They muſt not ſeeke for their owne thinges, that is, for procurations, but for the thinges of Jeſus Chriſt, that is, for the ſalvation of their ſoules, whom they viſite. How is that to be done? Prædicationi & exhortationi, correctioni & reformationi vacando. By imploying themſelves in preaching and exhorting, there's the firſt thing; By imploying themſelves in correcting & reforming, there is the ſecond thing. Where muſt theſe thinges be done? In viſitationis officium exercendo, at the viſitation. By whom? a viſitationis officium exercentibus. By them that keep the viſitation, who are they? Arch-deacons, Biſhops, Arch-biſhops. who is now, my Lord, to preach the viſitation ſermon, The viſiter or the viſited?

And here my Lord, I doe now make good my two laſt arguments out of the word of God, wherein there was nothing doubtfull, but onely theſe two thinges, whether to viſite were to preach and to correct, and both they the viſiters worke at the viſitation? and both theſe appeare out of this text. For here, *exercere viſitationis officium, eſt prædicationi & exhortationi, correctioni & reformationi vacare.* To viſite or keepe a viſitation, is to imploy ones ſelfe in preaching and exhorting, in correcting and reforming. So that when the canon law gives the viſiter, his procurations for viſiting, it gives him his procurations for preaching and correcting: and when the Arch-deacons, Biſhops, and Arch-biſhops of this realme, in their proceſſe chalenge their procurations, of us the incumbents for viſiting us: they chalenge their procurations of us, for preaching unto us, and for correcting of us: and the reaſon hereof is, quia viſitare vel viſitationis officium exercere, nihil aliud eſt, quam prædicationi & exhortationi, correctioni & reformationi vacare. Becauſe to viſite or keepe a viſitation, is nothing elſe but to imploy ones ſelfe in preaching and exhorting, in correcting and reforming. And therefore my Lord, ſeeing without all queſtion, without all peradventure, it is the viſiters duety to viſite, and to viſite is to preach and to correct: therefore it is his duety to preach and correct, as this text ſhewes: and this much ſhall likewiſe appeare out of my next canon, which is taken ex Sexti decretal. lib. 3. tit. 20. de cenſibus, exactionibus & procurationibus cap. 1. parag. Sane. The wordes are theſe,

Sane

Sane Archiepiſcopus viſitationis officium impenſurus, propoſito verbo Dei, quærat de vita & converſatione miniſtrantium in eccleſiis.

This canon my Lord, juſt as the former did, doth ſhew, what it is, impendere viſitationis officium, it is proponere verbum Dei, & quærere de vita miniſtrantium in eccleſiis. To preach the word of God, and to examine the lives of the Church miniſters. And both theſe, as this canon ſhews, muſt be done by the viſiter, yea by the cheiſe eccleſiaſticall viſiter, by the Arch-biſhop himſelfe at his viſitation. Archiepiſcopus viſitationis officium impenſurus, propoſito verbo Dei, quærat de vita & converſatione miniſtrantium in eccleſiis.

Vives makes this one difference, my Lord, betweene a baſe wit and an ingenuous minde: that the one will ſtrive for victory, in a knowne error, the other will rather ſeeke, how true that is, which he holds, than how he may defend it, and make greater price of verity, than of victory. And hereupon my Lord, I hold my ſelfe bound in conſcience, to acquaint your Lordſhip with the onely exception, that the advocates for the office, have made againſt all my prooſes, that ſo it may appeare, that I am not partiall in mine owne cauſe, nor wedded unto it, whether it be right or wrong: but that I am indifferently affected, nay wholy bequeathed unto the truth, that that may take place, and get the victorie, whether it be againſt me, or for mee. *Iib. de cauſis corruptarum artium.*

When this laſt text was alleaged in my behalfe, at informations in Doctors Commons, Doctor Rives the Kings advocate, and one of the advocates for the office againſt me, a learned Lawyer and an elegant orator, made this exception againſt it. He granted, that by the former text, præponere verbum dei, was the Arch-biſhops duty at his viſitation. But he added, that proponere verbum dei, did not bind the Arch-biſhop to preach the word of God at his viſitation, but onely to lay the word of God before him at his viſitation: as if the words of the text had beene, Præpoſito verbo Dei, and not propoſito verbo dei.

Dulhard vives his ſchoole-maſter was of opinion, that the worſt Grammarian would make the beſt logician: and it ſeemes, that Doctor Rives is of Dulhards opinion and thinkes to prove himſelfe a great canoniſt, by ſhewing himſelfe a weake grammarian, by taking pro or præ, or by confounding pro with præ. But this my Lord, is not expoſitio or interpretatio, but nugatio, nay corruptio & depravatio textus: or if it be an interpretation, it is ſuch an in- *Ibidem.*

Interpretation, as gave occasion to this old proverbe, mala glossa corrumpit textum. And as at that time, I entreated Doctor Rives to compare his glosse, with the approved glosse upon these words, which I suppose satisfied him at that time, I am sure it made him silent: so I desire your Lordship to observe the difference betweene Docter Rives his glosse, and the ordinary glosse, and to judge which comes neerest the text.

The ordinary glosse upon these former wordes, *Sane Archiepiscopus visitationis officium impensurus, proposito verbo Dei. quaerat de vita & conversatione ministrantium in ecclesiis*, makes this question, *Hic quaritur, quid primo debet facere Archiepiscopus visitans?* It gives this answer. *Respondetur, quod primo debet praedicare verbum dei, deinde debet inquirere, de vita & moribus habitantium ibidem vid. clericorum & laicorum.*

Proponere verbum dei then, not onely by its owne grammaticall signification, but also by the glosses approved interpretation, is prædicare verbum dei, to preach the word of God: & thereunto the Archbishop himselfe, the cheife visiter, under the King, is tied, & that ex debito, ex officio, out of debt & duety. Nay it is his primum debitum, his primum officium; his second debt & duety at the visitation, is to correct, and reforme: and both these this last glosse doth expressely shew. Archiepiscopus visitans debet, primo debet prædicare verbum dei, deinde deber inquirere, de vita & moribus ibidem habitantium vid. clericorum & laicorum. So that both by this last text & glosse, Archiepiscopus visitans tenetur, tenetur ex debito, tenetur ex officio, prædicare, primo prædicare verbum dei, secundo corrigere & reformare.

(d) Vltima conclusio. Prædicta forma visitationis debet servari in epis & aliis inferioribus: regularium consuetudinibus exceptis. Probatur hic in Parag. fin. & intellige de forma tradita a Parag. Sane usque in finem non de forma tradita in principio textus. secundum Do. Iohannes De vanquall in Breviario super sextum Decretal. in his conclusions upon the Parag. Hanc autem, ultima conclusio.

And now my Lord having prov'd it the Archbishops, the cheife Ecclesiasticall visiters, debt and duty, which he is to pay and performe to the Clergy and Laity at his visitation, nay his prime debt and duty, in the first place to preach his owne visitation Sermon, I may easily by an argument, drawne a *majore ad minorem*, a *superiore ad inferiorem*, prove it the duty of every inferiour visiter, of every Bishop, and Archdeacon, to preach his owne visitation Sermon; for quod valet in majore, valebit etiam in minore. But I stand not in neede of these topicall and analogicall arguments. The last paragraph of that chapter, the paragraph Hanc autem, requiers as much of every Bishop, and Archdeacon, at their visitation, as is by the former paragraph, the paragraph Sane, enjoyned the Archbishop at his visitation.

(d) Hanc autem visitandi formam ab universis etiam Episcopis, aliisque

aliisque prælatis, ordinario jure subjectos hoc visitandibus, plene observari præcipimus, præcipimus.

Here my Lord wee have this word præcipimus, and this word being inserted in a canon, makes canonicum præceptum κατ' ἐξοχὴν, in the higheſt degree, as the Canoniſts ſpeake: and therefore the canonicall obedience here required, muſt needes bee canonica obedientia by an excellency. And upon this word præcipimus, *Lyndewode* gives this note: (e) *Ex hoc apparet, quod contrafaciens peccat, ſaltem ille, qui eſt ſubditus præcipientis*: and *Greg. ad Iovinianum* ſaith, *quod præcipitur imperatur, quod imperatur neceſſe eſt fieri, ſi non fiat, penam habet.*

(e) Lyndewode Provinc. lib. 1. tit. de conſtitutionibus. cap. Quia in continentiæ vitium. verbo. Præcipimus.

This Canonicall precept then requiring canonicall obedience, is of neceſſity to be obeyed, and he that breaketh it, ſins, ſaith *Lindewode*, and is to be puniſhed, ſaith *Greg.* Now what is the canonicall obedience required by this canonicall precept? why, *Hanc viſitandi formam obſervari*, That the precedent forme of viſiting, enjoyned the Archbiſhop before in the paragraph, Sane. namely, that firſt he preach his owne viſitation Sermon, and then correct and reforme the parties viſited, be obſerved. By whom muſt it bee obſerved: *ab univerſis etiam epiſcopis*, by all Biſhops. By whom elſe? *aliisque prælatis.* By all other Prælates. *Scilicet Archidiaconis*, namely Archdeacons, ſaith the gloſſe: and laſtly, how muſt it bee obſerved? why, *plene obſervari præcipimus*, it muſt be fully obſerved, not *ſemiplene*, not by peeces or halfes, they muſt not onely preach, and omit to correct, nor onely correct, and omit to preach: but they muſt doe both joyntly together. If they omit either, they breake their canonicall obedience, they violate this canonicall precept, and therein they ſinne, and therefore they are to bee puniſhed.

And if to omit to preach the Viſitation Sermon, my Lord, be a ſin in the Archdeacons, Biſhops, & Archbiſhops, and to bee puniſhed: what a ſinne is it in them, wholy to reject that duty from themſelves, and without both canon and colour, to put it upon the incumbents, and if any incumbent refuſe it, to cite him to the high Commiſſion Court, and there to fine, impriſon, deprive, degrade, and excommunicate him? this ſurely is a tranſcendent and a ſuperlative ſinne, and therefore deſerves a tranſcendent and a ſuperlative puniſhment.

But I proceede, and from the text and gloſſe, I proceede to the Commentators and gloſſators upon the text. And in the firſt place

I produce these three, *Johannes Andreas* in apparatu suo super sextum decretalium, Helias Regnier, in his casus literales & notabilia super sextum decretal. And the third is anonymus quidam, the title of whose worke is, casus longi super sextum decretalium, compilati in alma universitate Pictavensi; and I joyne these three together, because they write upon the same text, and use the very same words upon the text.

The text they write upon, is the text last cited, ex sexti decretal. lib. 3. tit. 20. de censibus exact, & procurat. cap. 1. cap. Romana parag. Sane. Sane archiepiscopus visitationis officium impensurus, proposito verbo dei, quærat de vita & conversatione ministrantium in ecclesiis. And upon this text, they all give this glosse in these very wordes. Hic quæritur, quid primo debet facere Archiepiscopus visitans? Respondetur, quod primo debet prædicare verbum dei, deinde debet inquirere, de vita & moribus habitantium ibidem, videl. clericorum & laicorum; and it seemes, that Johanes Andreas was the first authour of those wordes, and that the other two, and the glosse in the last and best edition of the body of the canon law, put out by Gregory the thirteenth, borrowed them from him. For I finde them in the glosse of that edition, but in the glosses of former editions, I finde them not. But howsoever that prove, this is certaine, that this their glosse is uncontradicted by any, that ever I saw, and I have seene as many, as I could upon a diligent search finde in Pauls Church-yard, Duck-lane, and some other by-corners.

My fourth authour is Johanes de vanquall Colonienſis, Doctor utriusque juris, in his Breviary on the sixt book of the Decretals. in his conclusions upon the text last cited, conclusione 2. where he thus writes.

Spectat ad officium visitatoris primo discutere statum clericorum, qualiter baptismum & alia sacramenta administrent, & qualiter se habeant in ecclesia & vita. Et si omnia recte inveniat, deo gratias agat, sin autem aliter inveniat, ignaros instruat, & hæc nocte, qua venit, expediat: sequenti die de mane plebi vocatæ, debet prædicare verbum dei, docendo fidem, and quod mortalia vitent: & se continue in bonis operibus exerceant.

This glosse is agreeable to the former text, and binds the visiter, ex debito, ex officio, to preach at his visitation, and there to teach both Clergy and laity.

My fift man is Cardinall Hostiensis in the third booke of his summe,

ſumme, *tit. de Cenſibus, exactionibus & procurat.* Expounding the text laſt mentioned. His wordes are theſe.

Archiepiſcopus in ſecunda viſitatione illos viſitet, qui in prima non fuerint viſitati: & imprimis verbo dei propoſito, quarat de vita & converſatione miniſtrantium. Præcipit autem dominus noſter univerſis epiſcopis, aliiſque prælatis, ordinario jure, exceptis religioſis, viſitantibus, ut hanc formam ſtudeant obſervare. ut omnia hæc leguntur in authentica Domini.

In which words, my Lord, this is very obſervable, that *Hoſtienſis* ſaith, it is expreſly ſet downe in the very text of the canon law, even in the Popes authenticke Epiſtle, that every Arch-deacon, Biſhop and Arch-biſhop, is firſt to preach his owne viſitation ſermon, and then to correct and reforme the parties viſited. And if this much be expreſly ſet downe in the very text, what need we any more gloſſes to prove that, which is cleere and evident in the very text, and if any gloſſe ſhall contradict a plaine text, we may lawfully reject it, and conclude that it is *mala gloſſa, quia corrumpit textum.*

Now upon the other text, before alleaged out of the Decretals *lib.* 3. *tit.* 39. De cenſibus exactionibus & procurationibus. cap. 23. parag. Porro. The wordes whereof are theſe. Porro viſitationis officium exercentes, non quærant quæ ſua ſunt ſed quæ ſunt Jeſu Chriſti, prædicationi & exhortationi correctioni & reformationi vacando, ut fructum referant, qui non perit. I produce theſe three gloſſators, Petrus de Anchorano, Cardinall Zabarell, and Abbot Panormitan.

Petrus de Anchorano upon the former text ſayes. *Prælati tunc ſunt procurandi cum perſonaliter viſitant. Et debent tunc conſilium Lateranenſe ſervare, & prædicationi, exhortationi, & reformationi vacare.*

Cardinall Zabarell upon the ſame text, gives us this gloſſe. *Octavo nota quod debet viſitans inſtare prædicationi, exhortationi, & correctioni, & quid a clericis exquirere debeat, & quid eos docere, traditur in decretis, cauſa decima, quæſtione prima, cap. placuit.* *Abbot Panormitan* upon the former wordes ſayes, *viſitator debet prædicare ex munere.* and he further adds. *Quid debeat facere prælatus tempore viſitationis, vide bonum textum in decretis, cauſa decima. quæſtione prima. cap. placuit.*

There are two thinges my Lord, in theſe three gloſſators to be obſerved. The firſt is, that they doe expreſly affirme, that it is the viſiters ducty to preach his owne viſitation ſermon. The other is, that for fuller information in that point, they doe referre us to two,

terpretation, as gave occaſion to this old pro verbe, mala gloſſa corrumpit textum. And as at that time, I entreated Doctor Rives to compare his gloſſe, with the approved gloſſe upon theſe words, which I ſuppoſe ſatisfied him at that time, I am ſure it made him ſilent: ſo I deſire your Lordſhip to obſerve the difference betweene Doctor Rives his gloſſe, and the ordinary gloſſe, and to judge which comes neereſt the text.

The ordinary gloſſe upon theſe former wordes, *Sane Archiepiſcopus viſitationis officium impenſurus, propoſito verbo Dei. quærat de vita & converſatione miniſtrantium in eccleſiis*, makes this queſtion, *Hic quæritur, quid primo debet facere Archiepiſcopus viſitans?* It gives this anſwer, *Reſpondetur, quod primo debet prædicare verbum dei, deinde debet inquirere, de vita & moribus habitantium ibidem vid. clericorum & laicorum.*

Proponere verbum dei then, not onely by its owne grammaticall ſignification, but alſo by the gloſſes approved interpretation, is prædicare verbum dei, to preach the word of God: & thereunto the Archbiſhop himſelfe, the cheife viſiter, under the King, is tied, & that ex debito, ex officio, out of debt & duety. Nay it is his primum debitum, his primum officium; his ſecond debt & duety at the viſitation, is to correct, and reforme: and both theſe this laſt gloſſe doth expreſſely ſhew. Archiepiſcopus viſitans debet, primo debet prædicare verbum dei, deinde deber inquirere, de vita & moribus ibidem habitantium vid. clericorum & laicorum. So that both by this laſt text & gloſſe, Archiepiſcopus viſitans tenetur, tenetur ex debito, tenetur ex officio, prædicare, primo prædicare verbum dei, ſecundo corrigere & reformare.

(d) Vltima concluſio. Prædicta forma viſitationis debet ſervari in epis & aliis inferioribus: regularium conſuetudinibus exceptis. Probatur hic in Parag. fin. & intellige de forma tradita a Parag. Sané uſque in finem non de forma tradita in principio textus. ſecundum Do. Iohannes De vanquall in Breviario ſuper ſextum Decretal. in his concluſions upon the Parag. Hanc autem. ultima concluſio.

And now my Lord having prov'd it the Archbiſhops, the cheife Eccleſiaſticall viſiters, debt and duty, which he is to pay and performe to the Clergy and Laity at his viſitation, nay his prime debt and duty, in the firſt place to preach his owne viſitation Sermon, I may eaſily by an argument, drawne a *majore ad minorem*, a *ſuperiore ad inferiorem*, prove it the duty of every inferiour viſiter, of every Biſhop, and Archdeacon, to preach his owne viſitation Sermon; for quod valet in majore, valebit etiam in minore. But I ſtand not in neede of theſe topicall and analogicall arguments. The laſt paragraph of that chapter, the paragraph Hanc autem, requiers as much of every Biſhop, and Archdeacon, at their viſitation, as is by the former paragraph, the paragraph Sane, enjoyned the Archbiſhop at his viſitation.

(d) Hanc autem viſitandi forman ab univerſis etiam Epiſcopis, aliiſque

aliisque prælatis, ordinario jure subjectos suos visitantibus, plene observari præcipimus. præcipimus.

Here my Lord wee have this word præcipimus, and this word being inserted in a canon, makes canonicum præceptum κατ' ἐξοχὴν, in the higheſt degree, as the Canoniſts ſpeake: and therefore the canonicall obedience here required, muſt needes bee canonica obedientia by an excellency. And upon this word præcipimus, *Lyndewode* gives this note: (e) *Ex hoc apparet, quod contrafaciens peccat, ſaltem ille, qui eſt ſubditus præcipientis*: and *Greg. ad Iovinianum* ſaith, *quod præcipitur imperatur, quod imperatur neceſſe eſt fieri, ſi non fiat, panam habet.*

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This Canonicall precept then requiring canonicall obedience, is of neceſſity to be obeyed, and he that breaketh it, ſins, ſaith *Lyndewode*, and is to be puniſhed, ſaith *Greg.* Now what is the canonicall obedience required by this canonicall precept? why, *Hanc viſitandi formam obſervari*, That the precedent forme of viſiting, enjoyned the Archbiſhop before in the paragraph, Sane. namely, that firſt he preach his owne viſitation Sermon, and then correct and reforme the parties viſited, be obſerved. By whom muſt it bee obſerved: *ab univerſis etiam epiſcopis*, by all Biſhops. By whom elſe? *aliiſque prælatis.* By all other Prælates. *Scilicet Archidiaconis*, namely Archdeacons, ſaith the gloſſe: and laſtly, how muſt it bee obſerved? why, *plene obſervari præcipimus*, it muſt be fully obſerved, not *ſemiplene*, not by peeces or halfes, they muſt not onely preach, and omit to correct, nor onely correct, and omit to preach: but they muſt doe both joyntly together. If they omit either, they breake their canonicall obedience, they violate this canonicall præcept, and therein they ſinne, and therefore they are to bee puniſhed.

And if to omit to preach the Viſitation Sermon, my Lord, be a ſin in the Archdeacons, Biſhops, & Archbiſhops, and to bee puniſhed: what a ſinne is it in them, wholy to reject that duty from themſelves, and without both canon and colour, to put it upon the incumbents, and if any incumbent refuſe it, to cite him to the high Commiſſion Court, and there to fine, impriſon, deprive, degrade, and excommunicate him? this ſurely is a tranſcendent and a ſuperlative ſinne, and therefore deſerves a tranſcendent and a ſuperlative puniſhment.

But I proceede, and from the text and gloſſe, I proceede to the Commentators and gloſſators upon the text. And in the firſt place

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The text they write upon, is the text last cited, ex sexti decretal. lib. 3. tit. 20. de censibus exact, & procurat. cap. 1. cap. Romana parag. Sane. Sane archiepiscopus visitationis officium impensurus, proposito verbo dei, quærat de vita & conversatione ministrantium in ecclesiis. And upon this text, they all give this glosse in these very wordes. Hic quæritur, quid primo debet facere Archiepiscopus visitans? Respondetur, quod primo debet prædicare verbum dei, deinde debet inquirere, de vita & moribus habitantium ibidem, videl. clericorum & laicorum: and it seemes, that Johanes Andreas was the first authour of those wordes, and that the other two, and the glosse in the last and best edition of the body of the canon law, put out by Gregory the thirteenth, borrowed them from him. For I finde them in the glosse of that edition, but in the glosses of former editions, I finde them not. But howsoever that prove, this is certaine, that this their glosse is uncontradicted by any, that ever I saw, and I have seene as many, as I could upon a diligent search finde in Pauls Church-yard, Duck-lane, and some other by-corners.

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Spectat ad officium visitatoris primo discutere statum clericorum, qualiter baptismum & alia sacramenta administrent, & qualiter se habeant in ecclesia & vita. Et si omnia recte inveniat, deo gratias agat, sin autem aliter inveniat, ignaros instruat, & hæc nocte, qua venit, expediat: sequenti die de mane plebi vocatæ, debet prædicare verbum dei, docendo fidem, and quod mortalia vitent: & se continue in bonis operibus exerceant.

This glosse is agreeable to the former text, and binds the visiter, ex debito, ex officio, to preach at his visitation, and there to teach both Clergy and laity.

My fift man is Cardinall Hostiensis in the third booke of his summe,

ſumme, *tit. de Cenſibus, exactionibus & procurat.* Expounding the text laſt mentioned. His wordes are theſe.

Archiepiſcopus in ſecunda viſitatione illos viſitet, qui in prima non fuerint viſitati: & imprimis verbo dei propoſito, quærat de vita & converſatione miniſtrantium. Præcipit autem dominus noſter univerſis epiſcopis, aliiſque prælatis, ordinario jure, exceptis religioſis, viſitantibus, ut hanc formam ſtudeant obſervare. ut omnia hæc leguntur in authentica Domini.

In which words, my Lord, this is very obſervable, that *Hoſtienſis* ſaith, it is expreſly ſet downe in the very text of the canon law, even in the Popes authenticke Epiſtle, that every Arch-deacon, Biſhop and Arch-biſhop, is firſt to preach his owne viſitation ſermon, and then to correct and reforme the parties viſited. And if this much be expreſly ſet downe in the very text, what need we any more gloſſes to prove that, which is cleere and evident in the very text, and if any gloſſe ſhall contradict a plaine text, we may lawfully reject it, and conclude that it is *mala gloſſa, quia corrumpit textum.*

Now upon the other text, before alleaged out of the Decretals *lib.* 3. *tit.* 39. De cenſibus exactionibus & procurationibus. cap. 23. parag. Porro. The wordes whereof are theſe. Porro viſitationis officium exercentes, non quærant quæ ſua ſunt ſed quæ ſunt Jeſu Chriſti, prædicationi & exhortationi correctioni & reformationi vacando, ut fructum referant, qui non perit. I produce theſe three gloſſators, Petrus de Anchorano, Cardinall Zabarell, and Abbot Panormitan.

Petrus de Anchorano upon the former text ſayes. *Prælati tunc ſunt procurandi cum perſonaliter viſitant. Et debent tunc conſilium Lateranenſe ſervare, & prædicationi, exhortationi, & reformationi vacare.*

Cardinall Zabarell upon the ſame text, gives us this gloſſe. *Octavo nota quod debet viſitans inſtare prædicationi, exhortationi, & correctioni, & quid a clericis exquirere debeat, & quid eos docere, traditur in decretis, cauſa decima, quæſtione prima, cap. placuit.* *Abbot Panormitan* upon the former wordes ſayes, *viſitator debet prædicare ex munere.* and he further adds. *Quid debeat facere prælatus tempore viſitationis, vide bonum textum in decretis, cauſa decima. quæſtione prima. cap. placuit.*

There are two thinges my Lord, in theſe three gloſſators to be obſerved. The firſt is, that they doe expreſly affirme, that it is the viſiters ducty to preach his owne viſitation ſermon. The other is, that for fuller information in that point, they doe referre us to two,

canons: The firſt, is the tenth canon of the ſecond Lateran Councell, mentioned by Petrus de Anchorano. The other is the firſt canon of the ſecond (*f*) Bracharen Councell, conteined in the decrees, the tenth cauſe, the firſt queſtion, the Chapter Placuit, mentioned by Zabarell and Panormitan: And theſe two canons lay a greater burden upon the viſiter, than to preach his owne viſitation ſermon, at the publicke meeting of the deaneries; or at a generall chapter and viſitation of many pariſhes. For the firſt canon of the ſecond Bracharen Councell contained in the chapter placuit, binds every Biſhop to goe over his whole dioceſſe parochiatim, and in every pariſh to teach both clergy and laity: The clergy, how to doe their owne duties in their owne Churches: and the laity, how to underſtand the Articles of the Chriſtian faith, and how to lead a godly life, and then that canon concludes. *Et ſic poſtea Epiſcopus de illa eccleſia proficiſcatur ad aliam.*

(*f*) Brachara metropolis in provincia Gallæciæ. The city Braga or Bracha in Portugall. ex Binnio.

And if any Biſhop either through multitude of buſineſſe, or bodily ſickneſſe, or want of knowledge, or through other occaſions, cannot in his owne perſon, preach the word of God Parochiatim through his whole diæceſſe: Then the other canon, the tenth canon of the ſecond Lateran Councell binds him. *aſſumere viros idoneos, potentes opere & ſermone, qui plebes ſibi commiſſas vice ipſius (cum ipſe per ſe idem nequeat) ſollicite viſitantes, verbo adificent & exemplo.* To take unto himſelfe able men powerfull in deed and word, who carefully viſiting the people committed to him, may in his ſtead, when he himſelfe cannot, edifie them by word and example. And it ties the Biſhop to give them competent allowance. *Quibus ipſe cum indiguerint, congrue neceſſaria miniſtret*, and it ſhewes, that the Biſhop is bound ſo to doe, by the law of naturall equity, becauſe they are his *coadiutors & cooperators, non ſolumin prædicationis officio, verum etiam in audiendis confeſſionibus & pœnitentiis iniungendis, ac cæteris peragendis, quæ ad ſalutem pertinent animarum*, and it concludes, *ſi quis hoc neglexerit adimplere diſtricta ſubiaceat ultioni.* If any Biſhop ſhall not preach the word, heare confeſſiones, injoyne penance Parochiatim, through his whole diæceſſe, either in his owne perſon, or elſe ſubſtitute others under him to doe ſo for him, and give them a good allowance for it, he is ſeverely to be puniſhed.

And thus my Lord, whereas our Archdeacons, Biſhops and Archbiſhops, make it the incumbents duty, out of canonicall obedience, to Preach the viſiters viſitation Sermon: I have pro-

proved, that canonicall obedience is such obedience as the canons require, and that the canons bind every visiter, every Archdeacon, Bishop, and Archbishop, to preach his owne visitation Sermon, at the publicke meeting of the Deaneries, & also in his owne person, or by deputies, to preach parochiatim in every incumbents cure, through his whole Diocesse, and I will now conclude this first particular, with the repetition of the first part of my former syllogisme.

Cauonicall obedience is such obedience, as the canons require.

But the Canons binde every visiter, every Archdeacon, Bishop, and Archbishop, to Preach his owne visitation Sermon: *Ergo.*

By Canonicall obedience, every visiter, every Archdeacon, Bishop, and Archbishop, is bound to preach his owne visitation Sermon.

I now proceede to my other two particulars; That the Canons bind licensed Preachers, to preach at their owne cures only, and forbid me, and such as I am, that are not licensed preachers, to preach, or expound any *Scripture* in our owne cures, or else where: And for brevities sake, I will handle them both together, and so *vna fidelia duos parietes dealbare.* Thesis 5. & Thesis 6. Probatio.

And in the first place, my Lord, I must put a difference betweene the auntient and moderne canons. The auntient canons gave power to every Presbyter, that had cure of soules, to preach the word, and to doe all other offices of his calling in his owne cure. In the fift booke of *Lyndewodes* Provinciall tit. *de Hæreticis. cap. Reverendissime. Thomas Arundell* Archbishop of Cant. speakes thus; *Curatum perpetuum missum intelligimus a jure, ad locum & populum curæ suæ.* We understand, saith he, that a perpetuall curate is sent by the Law, to the place and people of his charge; and who this perpetuall curate is, *Lyndewode* in his glosse upon those words doth in these words shew: *Perpetuus curatus, sicut Episcopus in sua Diœcesi, rector & vicarius in sua parochia, & quilibet perpetuo intitulatus ad beneficium, cui immineat cura animarum.* So that then, even by the Law it selfe, every Rector and Vicar was a licensed Preacher in his owne cure, as well as the Bishop was in his owne Diocesse, and might doe all functions belonging to the office of a Presbyter, in his owne Parish without any licence from the Bishop, as well as the Bishop in his Diocesse, may doe all the Offices of a Bishop, without any license from the Archbishop.

And to that purpose in the first booke of *Lyndewodes* Provinciall tit. *De officio Archipresbyteri, cap. Ignorantia sacerdotum.* I finde this canon made by *Iohn Peccam*, Archbish. of Cant. *Præcipimus ut quilibet sacerdos plebi præsidens, quater in anno per se vel per alium, diligenter exponat subditis suis, articulos fidei, decem mandata decalogi duo præcepta evangelij, vid. gemina charitatis septem opera misericordiæ, septem peccata mortalia, sua cum progenie, septem virtutes principales, ac septem gratiæ sacramenta.*

But our moderne canons, our canons made in King *Iames* his raigne, hath altered this point and permits not any incumbent to Preach or expound any Scripure no not in his owne cure, untill hee be first made a Licensed Preacher: so that our Church according to those canons, hath two sorts of incumbents, some that are licensed (*g*) preachers, others that are not. These licenses are onely granted, either by one of the Universities, or by a Bishop or an Archbishop: He that is licensed by one of the Universities must be licensed under their Seale onely, he that is licensed by a Bishop, or any Archbishop, must be licensed under their hand and Seale. And at the time of his licensing, the Bishop that licenceth him, is to see him subscribe to the three Articles for the conformity of Religion, extant in the 36. canon. Otherwise the Bishop that licenseth him, is to be suspended for a twelvemoneth by the 36. canon: And such a license is qualification to hold two benefices, by the 41. canon: And he that is thus licensed, is bound to preach in his owne cure once every Sunday only, by the 45. canon. He that is not thus licensed, is no licensed preacher, & is forbidden to preach, or expound any Scripture in his owne cure or elsewhere, by the 36. 49. & 52. Canon.

Now my Lord, can the Archdeacon, or any other Prelate by canonicall obedience, command a licenced preacher to preach either twice a sunday in his owne cure, or once in the weeke daies, either in his owne cure, or at the visitation, or elsewhere? He cannot by canonicall obedience, which is such obedience as the canons require, command him beyond the Canons. If he doe, he brings in uncanonicall, præter canonicall or ultra canonicall obedience, the first part or kinde of Arbitrary or blinde obedience, and therein,

(*g*) Saint Chrysost. on 1. Cor. 1. 17. saith, Evangelizare per pauca rum est, baptizare autem cuiuslibet, modo fungatur sacerdotio. and a little after: Siquidem presbyteris, qui simpliciores sunt, hoc manus tradimus, ut baptizent; verbum autem ut doceant, non nisi sapientioribus: hic sapientia & labor. quamobrem & alibi inquit: qui bene præsunt presbyteri, duplici honore digni sunt, maxime qui laborant in verbo.

Quilibet sacerdos cum ordine accipit potestatem consecrandi, baptizandi, prædicandi & absolvendi ab omnibus peccatis: sed interdicitur exercitium illius potestatis, donec concedatur de licentia eius, qui potest: quare reservare non est non concedere potestatem absolvendi, sed minuere potestatem. Itaque non caute Sotus est loquutus. Compendium Navarri de irregularitate, cap. 28. pag. 337. ut. De casibus reservatis.

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he goes contrary to the nineteenth of the 25. of *Hen.* 8. which in ſubmiſſion to the Kings ſupreame Eccleſiaſticall Juriſdiction, limiteth the whole Clergie of this Land, to the Canons of this land, he incrocheth upon the royall prerogative of the Crowne, hee with drawes his ſubmiſſion from his Majeſtie, he preſumes to make Canons within his owne juriſdiction, & for that by the former ſtatute being convict therfore, he is liable to be fin'd and impriſon'd at the Kings pleaſure. And beſide both he and they that obey him, and they that aſſiſt him, and they that pleade or argue for him, and they that give ſentence or judgement with him, doe all violate the oath of ſupremacy: for by that oath they are all bound to the utmoſt of their power to aſſiſt & defend all juriſdictions of the Crowne, and they to the utmoſt of their power doe overthrow and betray the auntient juriſdiction of the crowne over the ſtate Eccleſiaſticall.

But this is not my caſe, my Lord, for I am not a licenced Preacher, neither was I, when this controverſie firſt began: and the Defendants confeſſe ſo much in their plea, the fift Article: neither could I ſince procure a licence of them, though I ſued unto them twice for it, and they both in their Articles and ſentence, extant in their plea, confeſſe me to be ſufficiently qualified for a licenſed preacher. And therefore I then was, and am now forbidden to preach or expound any Scripture in mine owne cure, or elſewhere, by the 36. 49. and 52. canons.

Now theſe Canons my Lord were made by a provinciall Synod, call'd together by the Kings writ, and they were afterwards confirmed by his Majeſties Letters Patents, out of his prerogative royall. His Majeſtie therein ſtraightly chargeth, all his loving ſubjects of both provinces, to keepe and obſerve all theſe Canons, in every point, wherein they doe, or may concerne every, or any of them: and hee doth likewiſe charge all Archbiſhops, Biſhops, and all others, that exerciſe any Eccleſiaſticall authority within this Realme, to ſee and procure that all within their juriſdictions, doe obſerve and keepe them in the former manner. So that his Majeſty doth charge mee, being no licenſed preacher, to keepe and obſerve the former canons, which forbid me to preach in mine owne cure, or elſewhere: and doth likewiſe charge the Arch-deacon, Biſhop and Arch-biſhop of Canterbury to ſee and procure, that I doe obſerve them. And to the intent that both clergy and laity may the better obſerve them, his Majeſty chargeth all incumbents, to read them publickely, in their owne Churches, to their owne people, once every yeere.

Now can the Arch-deacon, or any other prelate, by canonicall obedience command me to preach, contrary to theſe canons? No ſurely, canonicall obedience is ſuch obedience as the canons require; but this is contrary to the canons, and therefore is arbitrary obedience, and the worſt part or kind of Arbitrary obedience, namely anticanonicall or contracanonicall obedience.

What then am I to doe in this caſe? For this is my caſe, my Lord; am I to obey the (*h*) canons, his Majeſties letters patents, his royall prerogative, a royall prerogative inveſted in the crowne, by God himſelfe, acknowledged by article, by ſtatute, by canon, nay a royall prerogative, which every one, that hath taken the oath of ſupremacy, as I have done, is ſworne to the utmoſt of his power, to defend and mainetaine? or am I to obey the Arch-deacons Apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antiſuprematicall poſtſcript, private letter, or meſſage, contrary to all the former?

This queſtion my Lord, is as if a man ſhould aske, which is higheſt heaven or earth? lighteſt day or night? largeſt the circumference or center? greateſt the whole or a part? And therefore at the very firſt hearing, without any diſcourſe at all, even by the inbred light that is in it, it may be reſolved. Yet ſeeing my adverſaries do (*i*) wilfully oppoſe the evident truth of Gods word, of the articles, ſtatutes canons, of his Majeſties letters patents, royall prerogative, and oath of ſupremacy, which are as cleere in this my caſe, and as eaſie to be diſcerned, as the light of the ſunne, the heate of the fire, the weight of the earth, and the water of the Sea: By your Lordſhips favour, I will preſume to adde light to the ſunne, heate to the fire, weight to the earth, and water to the ſea, and by ſome few texts of law, endeavour to make that more cleere, which is of it ſelfe moſt cleere.

Felinus de reſcriptis. cap. ſi quando. gives this rule: Subditi debent reſiſtere prælato legem ignoranti inſtruendo eum, multo ma-

(h) Contumax eſt, qui bene intelligit Canones præcipientes contrarium, & tamen non vult eis obedire, ſed ſcienter contrafacit. Vnde contumax idem eſt, quod ſuperbus iniurioſus, repugnans, contemnens, ſive in obediens ſecundum Januenſium Lyndewode. Prov. lib. 1. tit. de Sacra unctione. Cap. cum ſacri. verb. contumaci.

See Biſhop Whites Treatiſe of the Sabbath day. pag. 99. 100. 101. 102. 103. concerning the quality of Eccleſiaſticall precepts and conſtitutions with the marnall notes.

(i) But in particuler, for that which firſt cauſed, and now continues the loſſe of unity in the Church of Chriſt, as I make no doubt, but that the pride of men, is one cauſe, ſo yet can I not think, that pride is the adæquate and ſole cauſe thereof. But in part pride cauſed it, & pride on all ſides: Pride in ſome that would not at firſt, nor will not ſince ſubmit their private iudgements, where with good conſcience they may and ought: and pride in others, that would not firſt, nor will yet mend, manifeſt, great, and dangerous errours, which withall good conſcience they ought to doe. But it is not Pride, not to ſubmit to knowne and groſſe errours. My Lords Grace of Cant. Archbiſhop Laud in his relation of the conference betweene his Grace and Maſter Fiſher the Ieſuite. Parag. 38. Numb. 14.

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gis legem violanti, maxime vero legem conculcanti. And if this rule be a good rule, then the 36.49. and 52. canons, made by a provinciall synode, for the lawfully authority of a Bishop over a Presbyter, according to Gods word and the uniforme practise of the Christian Church for 1500. yeeres after Christ, & confirmed by his Majesties letters patents, out of his prerogative royal, are to be prefer'd before the Arch-deacons apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antisuprematicall postscript, private letter, and message: And then I have done well, & the Arch-deacon, the defendants, the Honourable Court of high Commission, your Lordship, this court, the Barons of the Exchequer, and the Lords of the counsell have all done ill.

Hostiensis gives this rule. *si quid præcipit prælatus, quod canonicis obviat institutis, non est obediendum sed resistendum.* And if this rule be a good rule, then &c. 3. Lib. summæ. tit. de maioritate & obedientia.

Lyndewode gave this rule. *nihil potest statuere Episcopus, contra canones, nec inferior tollere legem superioris.* And if this rule be a good rule, then &c. Provinc. lib. 2. tit. de Appellat cap. In concilio Oxoniensi. verbis. statutum. Huius statuti.

* *Martinus ab Aspilcueta Doctor Navarrus* gives this rule. *Non est obediendum uni superiori, cum superior eius contrarium præcipit.* And if this rule be a good rule, then &c. * In consultationibus.

* *Hostiensis* againe gives this rule, *cum duo domini contraria iubent, maiori est obediendum, minori resistendum.* And if this rule be a good rule then &c. * Loco prælegato. Decretal. lib. 1. tit. 2. De constitut. cap. 1.

The body of the Canon law, gives this rule; *Canonum statuta ab omnibus custodiantur. & nemo in actionibus vel iudiciis Ecclesiasticis suo sensu, sed eorum authoritate ducatur*: and if this rule be a good rule: then, &c.

Bellarmine gives this rule. as it is well expressed by my most reverend Diœcesen and provinciall, my Lords Grace of Cant. in his relation of the conference betweene his Grace and Master Fisher the Jesuite in these words; Inferiours may not judge whether their superiours, (and that in a Councell) doe proceede lawfully, or not, unlesse it manifestly appeare, that an intollerable error be committed. And this caution or exception, that an intollerable error doe first manifestly appeare, doth free *Bellarmine* from inclining to a private (*k*) spirit, as his Grace doth seeme there to imploy. And if this Lib. 2. De concil. cap. 8. parag. Alii dicunt Concilium. Nisi manifestissime constet intolerabilem errorem committi. parag. 33. numb. 3.

(k) 2 Pet. 1. 20. 21. Knowing this first, that no Prophecy of Scripture is of any private interpretation; for the Prophesie came not in old time by the will of man: but holy men of God spake, as they were moved by the Holy Ghost. An interpretation may bee private, ratione personæ, and yet more then private, ratione medii.

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rule bee a good rule, then, &c. and have all inclind to a private ſpirit.

Parag. 33. Numb. 4. Againe my moſt reverend Dioceſan and Provinciall, my Lords Grace of Cant. in his forecited treatiſe gives this rule; The Church is never more cunningly abuſed, then when out of this truth, that ſhe may erre, men inferre this falſehood, that ſhe is not to be obeyed. For it will never follow, ſhee may erre, therefore ſhee may not governe. For he that ſaies, obey them, which have the rule over you, and ſubmit your ſelves, for they watch for your ſoules. *Heb.* 13. commands obedience, and expreſſely aſcribes rule to the Church. And this is not onely a paſtorall power, to teach and direct, but a prætorian alſo, to correct and cenſure too, where errors or crimes are againſt points fundamentall or of great conſequence: elſe Saint *Paul* would not have given the rule for Excommunication. 1 *Cor.* 5. Nor Chriſt himſelfe have put the man, that will not heare and obey the Church, into the place and condition of an *Ethnicke* and a Publican, as hee doth. Saint *Mat.* 18. And *Solomons* rule is generall, and he hath it twice, *My ſonne forſake not the teaching or inſtruction of thy mother.* Now this is either ſpoken and meant of a naturall mother, and her authority over her children is confirmed *Eccleſiaſticus* 3. *And the foole will be upon him, that diſpiſeth her*, *Prov.* 15. Or it is extended to our myſticall and ſpirituall mother the Church: and ſo the *Geneva* note upon the place expreſſes it: and I cannot but incline to this opinion, ſaies his Grace, becauſe the bleſſings, which accompanie this obedience, are ſo many and great, as that they are not like to bee the fruits of obedience to a naturall mother only as *Solomon* expreſſes them all, *Prov.* 6. In all which here is no exception of a mothers erring. Hitherto my Lords Grace verbatim. Now my Lord, I demand, which beſt deſerves the name of Church, and of ſpirituall Mother, A provinciall Synod, or an handfull of men in the high Commiſſion Court, ſitting Judges in their owne cauſe, wherein they are all parties? ſurely a provinciall Synod. And if this rule bee a good rule then &c. and have all (to uſe his Graces owne words) followed the ſwinge and whirlewind of a private ſpirit.

Contra fund. Cap. 4. Saint *Auguſt.* gives this rule; and my moſt reverend Dioceſan & provinciall my Lords Grace of Cant. in his forecited treatiſe renders it thus; Conſent of nations, authority confirmed by miracles and antiquity; Saint *Peters* Chaire, and ſucceſſion from it, muſt not hold me, ſaith Saint *Auguſt.* againſt demonſtration of the truth:

Parag. 33. Conſideration 5. numb. 2.

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which if it bee so clearely demonstrated, that it can not come into doubt, it is to be preferd before all those things, by which a man is held in the Catholicke Church. Therefore saies his Grace, an Evident Scripture, or demonstration (*l*) of trueth, must take place every where, but where these cannot be had there must be submission to authority. And if this rule bee a good rule, then &c. and have all followed the wildnesse of a private spirit.

(*l*) An argument necessary and demonstrative, is such as being proposed to any man, and understood, the minde cannot chuse but inwardly assent unto it. parag. 33. Consider. 5. numb. 1. out of Hookers preface. pag. 29.

Solomon Prov. 28. 4. gives this rule. They that forsake the law, praise the wicked: but they that keepe the law, contend with them, and if this rule be a good rule, then &c.

Saint Peter 1. Epist. 2. cap. 13. and 14. verse. gives this rule. Submit your selves to every ordinance of man for the Lordes sake, whether it be unto the King as the supreame, or to governours, as them that are sent of him. First to the King, then to governours, first to the supreme, then to the subordinate: for so, saith Saint Peter, is the will of God, that by well doing yee might put to silence the ignorance of foolish men. It is then the will of God, the word of God, and a good worke, to preferre the King the supreme, before Governours the subordinate, and they that maintaine the contrary, are ignorant and foolish men, saith Saint Peter. In which wordes Saint Peter is very bold with his pretended successour the Pope, and with all those who being subjects, doe with that φιλοπρωτεύειν, Advance themselves above & before their owne Soveraignes: for he calls them all in expresse tearmes ignorant and foolish men: and if this rule &c.

But were there no other rule my Lord, but canonicall obedience onely, which my adversaries by abusing it against mee, have thrust into my hand, that were enough to decide this question, for canonicall obedience is such obedience, as the canons require. and if this rule be a good rule, then the canons are to be prefer'd before the Arch-deacons uncanonicall and anticanonicall postscript, private letter, and message: and then I have done well and the Arch-deacon, the defendants, and the Honorable Court of high Commission, your Lordship, this Court, the Barons of the Exchequer and the Lords of the counsell have done ill. So that now canonicall obedience, which the defendants have abused, as a net to insnare mee, and a buckler to defend themselves, being rightly understood, prooves an engine to deliver mee, and a net to entrap themselves: and in the very same net, that they have joyntly laid for mee is their owne foote taken and I am deliverd. *Hic est digitus Dei.* This is the Lords doing, and it is wonderfull in my eyes.

And that all that heare mee, may further behold the wonderfull worke of God, being acquitted in this first particuler, by vertue of Canonicall obedience, I am likewise by vertue thereof, acquitted in all the rest, and that by the testimony of my very adversaries. For the defendants themselves confesse, that my refusall to preach the Archdeacons visitation Sermon, is my principall or especiall fault: and therefore by the force of comparison, drawne from the adversaries owne estimate, whatsoever else they charge mee with, must needes be inferiour and accessary: and then seeing the principall or especiall fault prooves no fault at all, noe breach of any law whatsoever, but a vertue and an eminent vertue, even the vertue of canonicall obedience: all the other being by the testimony of my adversaries, which is the strongest proofe against them and for me, lesser than that refusall, they must needs be vertues, and great vertues, no faults or vices.

* 2 Kings c. 6. 18.19. ver. Fatemur sacerdotes non esse audiendos, nisi docuerint iuxta legem Domini. Canus lib. 3. c. ultimo.

And yet once againe, my Lord behold the wonderfull worke of God, *qui non tantum liberat innocentes, sed etiam capit astutos in astutia sua.* By vertue of this first particuler I am not onely acquitted, but the defendants themselves convicted and found culpable of a double crime.

Beleeve no every spirit, but try the spirits whether they are of God. 1 Iohn 4. Trie all things, and hold fast that which is good, 1 Thes. 5. Bee not unwise, but understand, what the will of the Lord is.

First in that they bring into this Orthodox church, arbitrary or * blinde obedience, and the worst part or kind thereof, namely antica nonicall or contracanonicall obedience: A thing preiudiciall to Gods glory, repugnant to his word, contrary to the doctrine and discipline of this Orthodox Church, dangerous to the safety of all good Kings good Magistrates, good men, the introduction of tyranny and slavery, and the subversion of all lawfull authority, obedience and liberty, and lastly the seminary & noursery of vices, & the bane and ruine of vertues, and one of the most damnable villanies and profound subtilties, that ever Satan brought into the Church of Rome: And therefore to be opposed and cried out against by every good man and Minister, not onely though he should with me, be fin'd imprison'd, deprived, degraded and excommunicated for it,

Ephes. 5. He that is spirituall, discerneth all thinges. 1 Cor. 2. you may have a thousand like both places and proofes, that the faithfull looke and take heede they be not seduced. And except you will excuse the people before God, if you mislead them, why should you barre them all triall and understanding, whether they follow faith unto Salvation, or withdraw themselves unto perdition? when the blind leadeth the blind, and they fall both into the pit of destruction, is not he that followeth, as sure to perish, as he that leadeth? Bishop Bilson in his difference betweene Christian subiection, and unchristian rebellion, 2 Part. pag. 261.

but

but alſo though it ſhould be his for, to were a Tib rne tippet for it.

And ſecondly in that they have called the Canons, the oath of canonicall obedience his Maje ties letters patents, his royall prerogative, the firſt of the firſt of Elizabeth, the 19. of 25. of Henry the eight, the oath of ſupremacy, the 37. Article of our Church, and the word of God, breaches of Canonicall obedience, principall or eſpeciall faults, greivous and enormous crimes: and have fin'd impriſon'd, deprived, degraded, and excommunicated a provinciall ſynode, the high Co rt of Parliament, this Orthodox Church of England, and his Majeſty: for in calling my obedience to the former, a breach of Canonicall obedience, a principall or eſpeciall fault, a greivous and enormous crime, they doe virtually by conſequence, and by neceſſary implication, call all the former breaches of Canonicall obedience, principall or eſpeciall faults, greivous and enormous crimes: and in fining, impriſoning, depriving, degrading, and excommunicating mee, for my obedience to the latter, they doe virtually by conſequence, and by neceſſary implication, fine, impriſon, deprive, degrade, and excommunicate all the latter for requiring ſuch obedience of mee.

For as Saint James in his Epiſt. 4. cap. 11. verſ. ſaith, Hee that ſpeaketh evill of his brother, or he that condemneth his brother, ſpeaketh evill of the law, and condemneth the law: which wordes of Saint James are abſolutely unavoidable with this limitation; he that ſpeaketh evill of his brother, or he that condemneth his brother, walking according to the law, he ſpeaketh evill of the law, or condemneth the law according to which his brother walketh: and therefore ſeeing the defendants call my obedience to the word of God, and to all the former, a breach of canonicall obedience, a principall or eſpeciall fault, a greivous and enormous crime, they doe virtually, by conſequence, and by neceſſary implication, call (m) the word of God and all the former, breaches of canonicall obedience, principall or eſpeciall faults, greivous and enormous crimes: and ſeeing they doe fine, impriſon, deprive, degrade and excommunicate me, for my obedience to the King, and to all the latter, they doe virtually, by conſequence, and by neceſſary implication fine impriſon deprive, degrade, and excommunicate the King, and all the latter, for requiring ſuch obedience of mee.

And ſo my Lord the defendants have eminently committed that foule fault, in theſe very wordes, condemned in the canon law,

(m) If you be railed on for the name of Chriſt, bleſſed are yee; for the ſpirit of glory & of God reſteth upon you: which on their part is evill ſpoken off: but on your part is glorified. 1 Pet. cap. 4. 14.

Turpiſſimum eſt, ut inde naſcerentur injuriæ, ubi iura naſcuntur. It is a moſt ſhamefull thing, that Courts of Juſtice, ſhould be courts of injuſtice, and not onely againſt private perſons, but alſo againſt that Orthodox Church, wherein they live, againſt the Churches doctrine and diſcipline, Articles and Canons, which ought to be rules, not onely to guide the lives and opinions of private men, but alſo to regulate the cenſures and ſentences, even of the higheſt eccleſiaſticall Courts.

And to conclude this point, my Lord: If to puniſh for obedience, to the word of God, to the Articles, Statutes, Canons, to his Majeſties Letters Patents, Royall prerogative, and oath of ſupremacy, be to puniſh for vertue & piety: and to beginne that their ſentence: In the name of God, Amen. And in the body of the ſentence to affirme, That they did firſt call upon the name of Chriſt, And that they had God himſelfe alone ſet before their eyes, be to hide iniquity under the cloake of Hypocriſie and fained ſanctity: Then the high Commiſſioners have both puniſht me for vertue and piety, and have covered that iniquity, not with the ſhort cloake, for that will not doe it, but with the long robe of deepe diſſimulation and profound hypocriſie: And then by the confeſſion of my Lords Grace of Cant. my moſt reverend Dioceſan and provinciall in his ſpeech in the Starchamber *Termino Paſchæ* 1637. there is all the reaſon in the world, that his Grace, the High Commiſſioners, and the defendants ſhould all for that be ſeverely puniſhed themſelves.

Should be ſay my Lord, they are all *ipſo facto* ſeverely & deſervedly puniſhed. They are all by a double excommunication, excommunicate *ipſo facto*. & to be excommunicate *ipſo facto* is, ſaith *Lindwode* to be excommunicate, *lege ante lata, vel ſententia ante data, nullo intervenient e hominis miniſterio poſt actum peccantis*: and ſo are all they, for by puniſhing me, in the former manner, not onely for that, which is no breach of any law of the land, but alſo for my obedience to the Lawes of the land, contrary to the 29. chap. of *Magna Charta*, they have all *ipſo facto* drawne upon themſelves, thoſe two dreadfull ſentences of Excommunication, denounced againſt all the future violaters of *Magna Charta*, the one by Archbiſhop *Boniface* 37. *Hen.* 3. the other by Archbiſhop *Winchelſee*. 25. *Ed.* 1.

And my Lord, ſeeing *pares in culpa, pares in pena*, your Lordſhip, this Court the Barons of Exchequer, & the Lords of the Counſell have all likewiſe *ipſo facto*, drawne upon your ſelves that double

* Libro primo Pr. tit. de off. Archidiaconi. c. eiſdem. verb. ipſo facto. & eſt dicere ipſo facto, ac ſi diceret ipſo iure, ſcil. nullo hominis miniſterio intervenient e.

ble excommunication: your Lordſhip and this Court by affirming the Commiſſioners ſecond finall ſentence, the ſentence of deprivation and degradation, contrary to that 29. chap. of *Magna Charta*: The Barons of the Exchequer by impriſoning me contrary to that 29. chap. for the five hundredpounds fine, impoſed upon mee, by the Commiſſioners firſt finall ſentence, contrary to the foreſaid cap. and the Lords of the Counſell likewiſe, by impriſoning me contrary to the foreſaid chap. for a Petition, wherein I juſtly complained both againſt the High Commiſſioners for their former exorbitances. and alſo againſt your Lordſhip, and this Court, becauſe you would not doe mee juſtice, according to his Majeſties moſt juſt mandate.

And yet my Lord in this matter, the High Commiſſioners have a double precedency above your Lordſhip, this Court, the Barons of Exchequer, and the Lords of the Counſell: for the high Commiſſioners have puniſht me ſixe times, contrary to the 29. chapter of *Magna Charta*. They have twice impriſon'd, and once fin'd, depriv'd, degraded, and excommunicated me: and for every time they are *ipſo facto*, twice apeece excommunicate, once every time with the two former excommunications, in all twelve times: your Lordſhip, this Court, the Barons of the Exchequer, and the Lords of the Counſell, have puniſht me only once apeece, contrary to the 29. chap. of *Magna Charta*, and ſo are all *ipſo facto* only twice apeece excommunicate.

Againe, your Lordſhip, this court, the Barons of the Exchequer, & the Lords of the Counſell ſtand excommunicate by the two former excommunications only: but the high commiſſioners, beſides the two former excommunications, ſtand excommunicate alſo by that very excommunication, which they unjuſtly denounced againſt me, according to this rule of the canon law, *Qui aliquem injuſte excommunicat, non excommunicat ſed excommunicatur, non ligat, ſed ligatur.*

For my Lord, excommunication, the Spirituall ſword of the Church is *ρομφαια δισση*, *gladius ex utraque parte acutus*, a two edged ſword: and that like the ſword of *Saul*, doth never returne empty from the blood of the ſlaine: but whether it be juſtly or unjuſtly unſheath'd. It alwaies killes and ſlaies one or other. If it be juſtly drawne againſt any man, then it kills and quite cuts off, from the Communion of Chriſt, and of his Church, that man againſt whom it was juſtly drawne, unleſſe he ſubmit and repent. But if it be unjuſtly drawne againſt any man, then let the ſtroake bee never

2 Sam. 1. 22.

ver so great, and the edge never so sharpe, yet by the innocency of the party and Christs institution, that stroake is warded, that edge blunted, and thereby the sword is recoiled & reverberated upon him, that unjustly drew it, and so with the other edge doth kill and quite cut off him, from the Communion of Christ, and of his Church.

And this my Lord is evident by the very words of our Saviour, wherein he gives power to his Apostles to excommunicate. *Iohn 20. Whosesoever sinnes yee remit, they are remitted, and whosesoever sinnes ye retaine they are retained:* And the retaining of the sinnes of an impenitent sinner, is the excommunicating, and casting him out of the Church, for his sinnes, and for his impenitency.

Why then my Lord, a man cannot bee justly excommunicated, except it bee for some sinne: and then our Lord and Saviour Jesus Christ cannot justly be excommunicated. For he did no sinne, neither was there any guile found in his mouth. *1. Pet. 2. 22.* and if our Lord and Saviour Jesus Christ cannot be justly excommunicated, neither can any man be justly excommunicated for his Communion with, or his obedience to our Lord and Saviour Jesus Christ.

What then is the effect of that excommunication, when a man *de facto* is excommunicated, for his communion with, or his obedience to our Lord and Saviour Jesus Christ? why this, my Lord, that excommunication makes no separation betweene the parties excommunicated, and Jesus Christ but unites and knits them nearer, and faster together: and makes a seperation onely, between the parties excommunicating on the one side, and Jesus Christ and the party united by that excommunication on the other side. Luke 6. 22.

And this is evident, my Lord first in the *Iewes. Iohn 9.* who by excommunicating the man borne blind, and cur'd by Christ, for professing and defending Christ, did not excommunicate or seperate him from Christ: (for Christ did immediately after that, entertaine him most gratiously) but did excommunicate and separate themselves both from him and Christ, united by that excommunication. And secondly, in the Councell of *Trent*, who by Anathematising the reformed Churches, for divers divine trueths, wherein they hold communion with Jesus Christ, have thereby united Christ and the reformed Churches more strongely and neerely together: and have made a separation onely, betweene that Councell and all that hold with it, on the one side, and Jesus Christ and the reformed Churches thereby united on the other side.

And so likewise my Lord, the high commissioners by excommunicating

nieeing me, for my obedience to Jesus Christ, to this Orthodox Church, to the Kings Majesty to the high Court of Parliament, and to a provinciall synode, have thereby indeed united mee, and all these more neerely together, and have made a separation onely betweene themselves on the one side, and me and all the former, united by that excommunication on the other side. And as among the high Commissioners, my Lord, some are oftner or seldomer excommunicate, according as they have had their fingers, oftner or seldomer in my punishments: so they that have beene actors and parties in all my six punishments, are excommunicate full 13. times. And whilst they stand and continue thus excommunicate, without either pleading the Kings pardon, or performing publicke penance, I for my part shall account them fitter for Amsterdam, and for Rome, than for this orthodox Church of England, out of which they have justly cast themselves by excommonicating me unjustly, for my communion therewith, and for my obedience thereto.

And this much my Lord, concerning the principalls: I should now proceed to the accessories, but that their are three arguments, first to be answered. The first is taken from law, the second from custome, and the third from a title, given to the Archdeacon in the canon law, and alleaged in the defendants plea, the third Article, namely because the Archdeacon is oculus episcopi, and therefore may enjoyne the incumbents within his Archdeaconry to preach his visitation sermon: that thereby he may see, and learne, and know their sufficiency. I will begin with the Argument taken from Law. The law is the fift commandement of the decalogue: Honour thy father and thy mother: and from these wordes a right learned commissioner in giving the first part of the first finall sentence against me argued thus; The Defendants 3. Arguments. The first Argument.

You Sir (saith he to me) will doe nothing, but what you are bound to doe by law, will you? and doth not the law bind you to preach the Arch-deacons visitation sermon? doth not the fift Commandement bind you to honour your Father? and is not the Archdeacon your spirituall father, and are not you his spirituall sonne? and hath not a spirituall father power by the fift Commandement to command his spirituall sonne any spirituall worke? and is not a spirituall sonne bound by the same commandement, to obey the spirituall command of his spirituall father, in doing the spirituall work commanded by him? Ergo you Sir are bound by the fift commandement, to doe this spirituall worke, to preach the Arch-deacons visitation sermon at the Archdeacons command. This

This was the argument my Lord, Socratically drawne from law: and this argument in and of it ſelfe, is very weake and feeble, all the ſtrength of it, depends upon the authority and credit of the argumentator: and therefore unleſſe I will be injurious to the argument it ſelfe and to the cauſe of my adverſaries, I muſt make known the Authour of this Argument, that ſo the ſtrength and validity thereof may the more appeare.

It was the right worthy, and right worſhipfull Sir *Henry Martin, vir cum cura dicendus*, a man not to be mentioned without ſingular reverence. A man that hath a long time, and did very lately *Dominari in Curiis Eccleſiaſticis*; A man that deſerved that Elogy, which *Eunapius* gives to *Longinus*, he was βιβλιοθήκη τις ἔμψυχος καὶ ἐφεστὼς μουσεῖον. A living Library, and a walking ſtudy; or as the ſame *Eunapius* ſaith of *Plutarch*, that he was ἡ φιλοσοφίας ἁπάσης ἀφροδίτη καὶ λύρα: The very Venus and harpe of all Philoſophy; So wee may truely ſay of the eminently learned Sir *Henry Martin*, that he was ἡ τῶν νόμων ἅπαντα καὶ τὰ πολιτικὰ καὶ κανονικὰ ἀφροδίτη καὶ λύρα: the Venus, the delicacy, the muſicall inſtrument, the Harpe, the Lute, the Theorbo, the Polyphon of all the law both Civill and Canon; he was like *Servius Sulpitius, Iuriſconſultorum eloquentiſſimus & eloquentium iuriſconſultiſſimus*. And as one ſaid of Saint *Auguſtine Deeſt theologiæ, quicquid Auguſtino deeſt*. Wherein ſo ever *Auguſtine* is defective, Theology it ſelfe is defective: ſo *Deeſt legi, quicquid martino deeſt*. Wherein ſoever ſir *Henry Martin* was defective, the very law it ſelfe is defective; and then ſurely the former argument, if it bee anſwerable to the Author of it, muſt needes be of great force and vertue, or elſe the Law it ſelfe muſt needes be defective.

But my Lord, though the Authour of this Argument was ſo accompliſhed, yet if we examine the argument it ſelfe, we ſhall finde it very weake and feeble, and being reduced into a ſyllogiſme, it runnes thus:

By the fift commandement every ſpirituall Father, may command his ſpirituall ſonne any ſpirituall worke, and by the ſame commandement every ſpirituall ſonne is bound to obey the ſpirituall command of his ſpirituall father in doing the ſpirituall worke commanded by him.

But the Archdeacon is my ſpirituall father, and I am his ſpirituall ſon and he hath commanded me a ſpirituall worke, namely to preach his viſitation ſermon: Ergo.

By the fift commandement I am bound to doe that ſpirituall worke,

worke, to preach that viſitation Sermon at the Archbiſhops command.

This ſyllogiſme my Lord, in reſpect of the forme is good, and all the doubt is concerning the matter of the major or firſt propoſition. If that be true, then the concluſion is true, if that be falſe, then the concluſion will faile. And firſt my Lord, I will confute the major or firſt propoſition (wherein the whole ſtrength of the argument lies) by granting it, and by ſhewing what a multitude of errors abſurdities, and inconveniencies, will follow and flow from it. The major or firſt propoſition is this:

By the fifth Commandement every ſpirituall father may command his ſpirituall ſonne any ſpirituall worke, and by the ſame commandement every ſpirituall ſonne is bound to obey the ſpirituall command of his ſpirituall father, in doing the ſpirituall worke commanded by him.

And if this propoſition be good Divinity, then the Archdeacon may command me or any other incumbent within his Archdeaconry not onely to Preach one Uiſitation Sermon for him, which is the utmoſt that the Archdeacon himſelfe challengeth, as appeares in his plea, the third Article, but he may alſo command me to preach at every Uiſitation holden by him, ſo long as we two live together. And beſides, he may command me to preach for him alwaies at his prebend, at his Donative, at his two benefices, and ſo he ſhall take his eaſe, and have all the gaines, and I take all the paines and diſcharge his cures and neglect mine owne. Neither ſhall Sir *Henry Martin* *ſi rev: viſceret*, interpoſe any limitation, qualification, reſtriction, or exception, to overthrow any of theſe conſequences, or collections from his major propoſition, but I by the ſame will overthrow his major propoſition, and free my ſelfe from preaching the Uiſitation Sermon. Confutatio 1.

Secondly if the foreſaid propoſition be good Divinity, then thereby I will free my ſelfe and all other incumbents from preaching both at the Uiſitation, and in our owne cures, and put both thoſe workes upon our Pariſhioners. For if the Archdeacon may command mee, becauſe I am his ſpirituall ſonne, to doe any ſpirituall worke, and therfore to preach his Uiſitation Sermon; then I likewiſe being a ſpirituall Father to my Pariſhoners, may command any of them, to do any ſpiritnall worke and therefore to preach that viſitation Sermon. And if I may command any of my Pariſhoners, becauſe I am their ſpirituall father, and they my ſpirituall ſonnes, to preach the Archdeacons Secunda.

deacons visitation Sermon, then I may likewise command them, to preach either monethly or weekely in mine owne Parish, and so free my selfe from both those labours, and yet legally discharge them both by my Parishioners, for *quod quis legitime facit per alium, idem est ac si faceret per se*: may further then that Parson or Uicar, in whose Parish sir *Henry Martin* did dwell, *dum viveret*, might have commanded him to have Preacht in his cure weekely or monethly. and that Archdeacon, Bishop and Archbishop within whose Jurisdiction Sir *Henry Martin* did dwell *dum viveret*, might have commanded him to have preacht their visitation Sermon: for hee was a spirituall sonne to all them, as well as I am to the Archdeacon: neither shall Sir *Henry Martin si revivisceret* interpose any limitation, qualification, restriction or exception to overthrow any of these consequences or collections from his major proposition, but I by the same will overthrow his major proposition, and free my selfe from preaching the visitation Sermon.

Tertia.

Thirdly, if the foresaid proposition bee good Divininity, then it will confound and make common the offices of Apostles, Bishops, Presbyters, and Laymen, which the word of God makes, and all antiquity * in and ever since the Apostles time held distinct and different. The most learned Bishop *Bilson* in his forecited Treatise *De perpetua Christi Ecclesiæ gubernatione*, observes that there were eight things in the Apostles, whereof foure were ordinary and perpetuall, and foure extraordinary and temporary. The foure extraordinary and temporary are these; To bee sent immediately by Christ, to have infallibility of judgement, a power to worke miracles, and to bee sent over the whole world. The foure ordinary and perpetuall are these, a power to preach the word, to adminiminister the Sacraments, to ordaine Ministers and to excommunicate. All the eight were onely in the Apostles: The foure ordinary and perpetuall onely in Bishops, two of them, namely a power to preach the word, and to administer the Sacraments, onely in presbyters: and none of all the former in Lay men.

* Αἰδεῖσθε τὸν ἐπίσκοπον ὑμῶν ὡς χριστὸν καθ' ἡμῖν οἱ μακάριοι διετάξαντο Ἀπόστολοι. Iggat. Epistola ad Trall.

But if the former proposition be good Divinity, then every parochiall Presbyter may command any of his Parishioners to do the forsaid foure ordinary workes, namely to preach the word, to administer the Sacraments, to ordaine Ministers, and to excommunicate any man, both in his owne Parish, and over the whole world, and then every Archdeacon, Bishop, and Archbishop may command all them, that are under their authority, to doe like. And so

every

every Parish Priest, Archdeacon, Bishop, and Archbishop, shall have not onely Episcopall and Archepiscopall authority by his bare word, to make licensed preachers over all *England*, which is contrary to the Canons, but also Apostolicall power, to send licensed Preachers over the whole world: which is the usurpation and presumption, which the Pope of *Rome* challengeth to the prejudice of all the Bishops, Archbishops, and Churches of Christendome, and to the diminishing of the supreame jurisdiction of all the temporall Princes through the world.

Whence my Lord, will arise an intollerable confusion of all the foresaid functions: and every lay man, by the Command of his spirituall superiour, shall be enabled to excommunicate any man, even Kings and Princes, and then surely every Clergie man may doe as much, and then neither Clergie nor Laity can justly except aginst Pope *Pius Quintus* for excommunicating Queene *Elizabeth*, nor against *Felton*, for setting up that excommunication upon the Bishops of *Londons* gates. Neither shall sir *Henry Martin, si reviviscaret*, interpose any limitation, qualification, restriction, or exception to overthrow any of these consequences or collections from his major proposition, but I by the same, will overthrow his major proposition, and free my selfe from preaching the visitation Sermon.

But in the fourth place, my Lord, to deale gratiously and indulgently with Sir *Henry Martin*, and not to stretch his words, so farre, as by true Logick, sound reason, and good consequence they reach, but onely so farre as he intended them; certainely his intent was to prove, that the Archdeacon might thereby command me to preach his visitation Sermon, and it was knowne unto him, that I was not a licensed preacher; for he together with the other Commissioners saies as much in the fift article extant in the Defendants plea: and it was also knowne unto him, that by the 36. 49. and 52. canons made. 1. *Jacobi*, no incumbent may preach or expound any Scripture, no not in his owne cure, untill he be first made a lycensed preacher, either under the seale of one of the Universities, or else under the hand and seale of a Bishop or an Archbishop: and it was likewise known unto him, that these * canons were made by a provinciall Synod, called together by the Kings writ, and confirmed by his Majesties Letters Patents out of his Prerogative Royall, out of a Prerogative Royall invested in the Crowne by God himselfe, acknowledged by Article, by Statute, by Canon, may out of a

Confutatio 4.

* Graviter peccat, qui obedientiam infringit, & præsertim si veniat contra leges sive constitutiones per superiorem rite & rationabiliter editas & promulgatas. Lyndewode. Prov. lib. 1. tit. de Constitut. cap. Quia incontinentiæ. ver. obedientiæ.

Prerogative Royall, which he and I, by the oath of Supremacy were both bound to the utmoſt of our powers, to defend and maintaine.

So that by the former argument drawne from the fift commandement, Sir *Henry Martin* would bring into this orthodoxe Church, arbitrary or blind obedience, and the worſt part or kinde thereof, not that onely which is uncanonicall, preter canonicall, or ultra canonicall, but that alſo which is anticanonicall or contracanonicall, even contrary to the *Canons, Statutes, Articles, oath of ſupremacy, and to the word of God, and thereby doth himſelfe, and would make me preferre the ſingle command of my ſpirituall father the Archdeacon, above and before the joynt command of all my ſpirituall fathers met in a provinciall Synod. 1. *Iacobi*, nay above the command of all the fathers gathered together in Parliament, 1. *Eliza.* & 25. *Henry* 8. yea before the command of the King himſelfe, Gods immediate deputy, who is *Pater patriæ, pater reipublicæ*, yea and *Pater Eccleſiæ* too: for though he be not *Pater generans Eccleſiam*, yet he is *pater nutriens Eccleſiam*, as the Prophet *Eſay* ſpeakes, *Kings ſhall be thy nurſing fathers, and Queenes thy nurſing mothers, Eſay* 49.23. nay above the command of God himſelfe, who hath commanded us to *render unto Ceſar thoſe things which are Ceſars, Mat.* 22. *and to obey Ceſars juſt lawes, not only for wrath, but for conſcience ſake. Rom.* 13. 5. *and that in the firſt place, above and before the command of any ſubordinate officer whatſoever*, 1 *Pet.* 2. 13.14.

So that Sir *Henry Martin* deales with the fift commandement, juſt as Pope *Gregory* the ſeventh did with the words of *Samuell* to unto King *Saul.* 1 *Sam.* 15. 22. for whereas the word of God ſaith, *to avoid fornication, let every man have his owne wife, and every woman her owne Husband.* 1 *Cor.* 7. 2. which is an abſolute precept enioyning all thoſe to marry, who cannot otherwaies avoid fornication, *Gregory* the ſeventh by the foreſaid *text of *Samuell*, doth contrary to the foreſaid word of God, 1 *Cor.* 7. 2. command all Prieſts to put away their wives under pretence of fornication. He ſaith *Gregory* that will not obey his moſt wholeſome precept of ours, forbidding Prieſts their wives, under colour of fornication incurreth the ſin of Idolatry, as *Samuel* witneſſeth not to obey, is the

* Hic dicit Gloſſa Hebraica: ſi dixerit tibi, quod dextra ſit ſiniſtra, vel ſiniſtra dextra, talis ſententia eſt refrenda, quod patet manifeſte falſum. Quia ſententia nullius hominis cuiuſcunque ſit authoritatis, eſt tenenda, ſi contineat manifeſte falſitatem vel errorem. Et hoc patet per id, quod præmittitur in textu. Indicabunt tibi iudicii veritatem: Poſtea ſubdi.ur: & docuerint te iuxta legem eius. Ex quo patet, quod ſi dicant falſum, & declinent a lege Dei manifeſte, non ſunt audiendi Lyran. in 17. cap. Devt.

* In concernentibus fidem, etiam dictum vnius privati eſſet præferendum dicto Papæ, ſi ille moveretur melioribus rationibus novi & veteris teſtamenti, quam Papa. Panormit. de elect. cap. ſignificaſti. prope finem.

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sinne of witchcraft, and not to be content, is the wickednesse of Idolatry. *Distinct.* 81. *si qui sunt.*

So that Pope *Gregory* the seventh and Sir *Henry Martin* agree both in this: They both approve of Arbitrary or blinde obedience, they both make the word of God the ground of it, they both derive it from generall texts of Scripture, and by vertue of those generall texts, they challenge a power to command, even contrary to God himselfe, speaking in other plaine, evident, and perspicuous texts; they differ only in this: Pope *Gregory* the seventh, derives this arbitrary obedience from the former words of Samuell, 1 *Sam.* 15. 22. and chalengeth it onely for himselfe. Sir *Henry Martin* deduceth it from the fift commandement, and chalengeth it for every spirituall father, for every incumbent Archdeacon, Bishop, and Archbishop.

Nay farther, Sir *Henry Martin* by his former argument from the fift commandement endeavours to make our Church, like the Church of *Rome*, as it is defined by *Gasper Scioppius* in his Ecclesiasticus. cap. 147. both in his summe and booke at large, where he thus defines the Church of Rome. *Ecclesia* * *est mandra, sive grex aut multitudo jumentorum & asinorum.* The Chrurch is a society or a company or a multitude of cattell and asses.

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* As Bishops ought to discerne which is truth before they Teach: so must the people discerne, who teacheth right, before they beleeve. Bishop Bilson in his true difference between Christian subiection, and unchristian rebellion. 2. part. pag. 259.

And where there are horses, & asses, & mules, there if there be any good done with them, must be Horse-keepers, Asselkeepers, & Muletors: and their whole Church as *Scioppius* saith, consists of these two. The Horses, Asses, & Mules are the Laity: & the Horsekeepers, Asselkeepers, & Muleters, are the Clergy. of the former he saies: Nos Dei jumenta sumus, sive pecora subiugalia, tanquam equi aut muli, sive asini Clitellarij, veterini, dossuarij, sarcinarij sagmarij: we are Gods juments or yoke cattell, as it were horses or mules or asses, to carry packes, to be girt with circingles, to carry Dossours, to beare burdens, to bee sumpters. And of the latter he saith, illi agasones, illi muliones nos frænant, nos loro alligant, nos agunt, nos stimulant, nobis jugum & onus imponunt: those horse-keepers, those muletors put the bridle upon us, they tye us with the raines, they drive us, they spurre or goade us, they put the yoke and burden upon

Sic nimirum se res habet, Iudicant oves & privati omnes iudicio discretivo: Judicant Episcopi & pastores iudicio directivo & clavium potestate coactivo; sed iudicant sæpe errante Clave; quo casu videntur solum ligare, non ligant. Judicat Christus solus iudicio infallibili, nec unquam errante clave. Non sic vel Pontifex vester e suo tripode, vel Concilium, vel tota Ecclesia Iudicat. Doctor Crakanthorpe Def. Ecclesiæ Anglic. contra Archiep. Spalat. cap. 13. parag. 20.

upon us. And doth not Sir *Henry Martin* endeavour to make our Church like theirs, in giving power, by the former argument, to every incumbent, to lay his burthen upon his Parishioners, to every Arch-deacon, Bishop, and Arch-bishop, to lay their burdens upon the Clergie and Laity within their jurisdiction. This is so evident, my Lord, that it cannot be denied, and all the harm I would wish him for it, *si revivisceret*, is only this, *ut patiatur interpretationem, quam tulerit*, that the blessing of *Issachar*, *Gen.* 49. 14. which by his former argument he endeavours to bring upon the whole Church of *England* may fall upon himselfe only, and that in the highest degree.

Confutatio 5. But my Lord in the same Author, and in the same place, there is one thing of an higher ranck and nature; and so high, that it transcends all Religion and piety, all modesty and honesty, all humanity and civility, and savours altogether of Antichristian and Luciferian pride and arrogancie and that's this: That *Scioppius* ranks amongst these Asses; not only such as are Subjects, but also such as are Soveraigns, even Kings and Princes, Gods immediate Deputies, as well those of their Religion, as those of ours; but with this difference, those of their Religion, he calls understanding and obedient Asses; those of our Religion, refractory Asses without understanding.

He calls them all (*) Asses for his former reason, because they were to beare what burdens those Agasones, those Muliones, the Popish Clergie should lay upon them; and their Kings he calls obedient and understanding Asses, because they did do so, they did submit their backs and shoulders to those burdens. And amongst them, he especially commends *Charles* the Great for a wise morigerous, and a patient Asse because he was a ringleader to all other Asses to submit to this his own rule in the Canon law. *In memoriam B. Petri honoremus sanctam Romanam & Apostolicam sedem. Servanda est cum mansuetudine humilitas, ut licet vix ferendum, ab illa sancta sede imponatur jugum, tamen feramus & pia devotione toleremus.* Let us in memorie of S. *Peter* honour the holy Romane and Apostolike See. Humility with meeknesse is to be observed, that although a yoke hardly to be borne, be put upon us by that holy See, yet let us beare and endure it with pious devo-

(*) To Bishops speaking the word of God. Princes as well as others must yeeld obedience: but if Bishops passe their Commission, and speak beside the word of God, what they list, both Prince and people may despise them. If Apostles and Angels be tyed to this condition, much more others: our first addition (which speake unto you the word of God) is ever intended in the Bishops function, though it be not expressed. Bishop Bilson in his true difference betweene Christian subiection, and unchristian rebellion, pag. 261, 262.

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tion? By which words ſaith *Scioppius*, thou mayeſt know him to be a true *Iſſachar*, of whom it is written, *Gen.* 49. 14. *Iſſachar* is a ſtrong Aſſe couching down between two burdens, he bowed his ſhoulder to bear.

And our Kings he calls refractory Aſſes without underſtanding, becauſe they would not ſubmit their backs and ſhoulders to theſe burdens, but did *pedibus recalcitrare*, kick againſt theſe horſe-keepers and muletors the Popiſh Clergie, which would put theſe burdens upon them. And in particular, he calls our late Lord and Soveraigne King *Iames* (whom I mention with ſingular reverence) a very Aſſe without underſtanding; becauſe he would neither ſuffer the bridle to be put into his mouth, nor any burden to be put upon him by that chiefe horſe-keeper and Arch-muleter the Pope of Rome; and was moreover, a ringleader to the Romiſh Aſſes, to do the like, both by his example, and alſo by his exhortation unto them, in theſe words of the third Pſalme, *Let us break their bonds aſunder, and caſt away their cords from us.*

And though my Lord, I do not charge either the High-Commiſſioners, your Lp. this Court, the Barons of the Exchequer, or the Lords of the Counſell, with thoſe ſhameleſſe and immodeſt words of *Scioppius*, which even impudency and inſolency would bluſh to utter againſt the Lords Anointed, and his immediate deputies and Vicegerents. Yet I muſt tell your Lordſhip, that all of you have a great part and ſhare in the matter it ſelfe.

The High-Commiſſioners by two finall ſentences, as I have formerly ſhew'd; have advanc'd the Apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antiſuprematicall poſtſcript, private letter and meſſage of M. Doctor *Ringſley*, Arch-Deacon of *Cant.* above the Canons of this orthodox Church, above his Majeſties Letters Patents, above his royall Prerogative, above a royall Prerogative inveſted in the Crown by God himſelf acknowledged by Article by Statute by Canon; nay, above a royall Prerogative, which every one that hath taken the oath of Supremacy, is bound to the utmoſt of his power to defend and maintain.

And they have fin'd, impriſon'd, depriv'd, degraded, and excommunicated me for my obedience to the Canons of this Church, to his Majeſties Leters Pat. and to his royall Prerogative and ſo vertually, by conſequence, and by neceſſary implication, they have fin'd, impriſon'd depriv'd, degraded and excommunicated the King himſelfe, for requiring ſuch obedience of me. And your Lp. and the Court by affirming

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And where there are horſes, & aſſes, & mules, there if there be any good done with them, muſt be Horſe-keepers, Aſſekeepers, & Muletors: and their whole Church as *Scioppius* ſaith, conſiſts of theſe two. The Horſes, Aſſes, & Mules are the Laity: & the Horſekeepers, Aſſekeepers, & Muleters, are the Clergy. of the former he ſaies: Nos Dei jumenta ſumus, ſive peccora ſubiugalia, tanquam equi, aut muli, ſive aſini Clitellarij, veterini, doſſuarij, ſarcinarij ſagmarij: we are Gods juments or yoke cattell, as it were horſes or mules or aſſes, to carry packes, to be girt with circingles, to carry Doſſours, to beare burdens, to bee ſumpters. And of the latter he ſaith, illi agaſones, illi muliones nos frænant, nos loro alligant, nos agunt, nos ſtimulant, nobis jugum & onus imponunt: thoſe horſe-keepers, thoſe muletors put the bridle upon us, they tye us with the raines, they drive us, they ſpurre or goade us, they put the yoke and burden upon

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The High-Commiſſioners by two finall ſentences, as I have formerly ſhew'd; have advanc'd the Apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antiſuprematicall poſtſcript, private letter and meſſage of M. Doctor *Ringſley*, Arch-Deacon of *Cant.* above the Canons of this orthodox Church, above his Majeſties Letters Patents, above his royall Prerogative, above a royall Prerogative inveſted in the Crown by God himſelf acknowledged by Article by Statute by Canon; nay, above a royall Prerogative, which every one that hath taken the oath of Supremacy, is bound to the utmoſt of his power to defend and maintain.

And they have fin'd, impriſon'd, depriv'd, degraded, and excommunicated me for my obedience to the Canons of this Church, to his Majeſties Leters Pat. and to his royall Prerogative and ſo vertually, by conſequence, and by neceſſiry implication, they have fin'd, impriſon'd depriv'd, degraded and excommunicated the King himſelfe, for requiring ſuch obedience of me, And your Lp. and the Court by affirming

firming the Commiſſioners ſecond finall ſentence, the ſentence of deprivation and degradation have approved of all this, and the Barons of the Exchequer by impriſoning me for the 500 l. fine impoſ'd upon me by the Commiſſioners firſt finall ſentence, have done as much; and the Lords of the Counſell by impriſoning me for a Petition, wherein I juſtly complain'd both againſt the High-Commiſſioners for their former preſumptions, and alſo againſt your Lordſhip and this Court, for your diſobedience to his Majeſties moſt juſt mandate, have approved of both.

(*) Quilibet homo doctus poteſt & debet toti concilio reſiſtere, ſi videat illud ex malitia vel ignorantia errare. Gerſon 1. parte de examinatione doctrinarum Coſider. 5.

So that you * all joine together *Regem frænare*, to put a bridle upon the King; yea, *Regem loro alligare*, to raine in the King, and his ſupreame juriſdiction: nay, in very deed *Regi jugum & onus imponere*, to put a yoke and burden upon the King, and ſuch a yoke and burden, as was never yet put upon any of his royall Predeceſſors. If the firſt of the firſt of *Eliz.* 19. of 25. of *Hen.* 8. and Sir *Edw. Coke* in *Cawdries* Caſe deceive me not.

For by all theſe it appears, that the Crown had ever a juriſdiction over the ſtate Eccleſiaſticall, and now you all do not only exempt the ſtate Eccleſiaſticall from the juriſdiction of the Crowne, but alſo ſubordinate the juriſdiction of the Crown to the ſtate Eccleſiaſticall, and do both advance the poſtſcript, private Letter, and meſſage of every Arch-deacon, Biſhop, and Arch-biſhop above the Canons of this Church, above his Majeſties Letters Patents and royall Prerogative: and thereby alſo elevate the perſon of every Arch-deacon, Biſhop, and Arch-biſhop above the perſon of the King according to this rule; *Cum duo Domini contraria jubent, qui obedit minori & reſiſtit majori, is minorem majori præfert & præponit*: which is an intollerable injury, indignity, and injuſtice; the King himſelfe, but alſo againſt not only againſt God himſelfe, from whom the King hath receiv'd his Supreame juriſdiction, and whoſe immediate Deputy the King is.

And therefore as my moſt reverend Diæceſan and Provinciall my Lords Grace of *Canterbury* in his Epiſtle before his Speech in the Starchamber; *termino paſchæ*, 1637. doth rightly obſerve againſt *Scioppius* and ſuch as he is, that blaſphemy againſt God, and ſlandering the footſteps of Gods Anointed, are joyned together. *Pſa.* 89. Becauſe he that blaſphemes God, will never ſtick at the ſlander of his Prince; and he that gives himſelfe liberty to ſlander his Prince, will quickly aſcend to the next higheſt and blaſpheme God.

So

So I may as truly observe against his Grace, the High-Commissioners, your Lordship, this Court, the Barons of the Exchequer, and the Lords of the Counsell, that justice towards the King, and justice towards God, are both joyned together by our Saviour in one verse, *Mat.* 22. because he that out of conscience, is just towards one, will be just towards both: and he that is wittingly unjust towards one, will easily be unjust towards both.

Nay my Lord, seeing the King receives his supreame jurisdiction immediately from God, he that is unjust towards the King, by depriving him of any part of his supreame jurisdiction, must of necessity, *ipso facto*, be unjust towards God: for as hee that renders unto *Cesar*, that which is *Cesars*, by the gift of God, doth *eo ipso*, render unto *Cesar*, that which is *Cesars*, and unto *God* that which is *Gods*: so he that takes from *Cesar* that which is *Cesars*, by the right of God, doth *eo ipso*, take from *Cesar*, that which is *Cesars* and from *God* that which is *Gods*.

And therefore my Lord, when the High Commissioners, your Lordship, this Court, the Barons of the Exchequer, and the Lords of the Counsell doe all in the former manner *regem frænare*, put a bridle upon the King, yee doe all *eo ipso*, *Deum frænare*, put a bridle upon God himselfe: when ye doe all in the former manner *regem loro alligare*, raine in the King and his supreame jurisdiction, yee doe all *eo ipso Deum loro alligare*, raine in God and his jurisdiction: and when ye doe all in the former manner, *regi jugum & onus imponere*, put a yoake and a burden upon the King, ye doe all *eo ipso Deo jugum & onus imponere*, put a yoke and burden upon God himselfe.

And how neere this comes to the cheife * character of the man of sinne, who exalts himselfe above all that is called God, above God ὑπεράνω, above God κατὰ θεὸν, above God by nature, above God by deputation, above God and Gods immediate Deputy the King, I leave it to your Lordship and the Court, as it was then, to inquire onely, not determine, because in this case ye are all both parties and offenders, and in both those respects incompetent Judges.

* D. Downeham of Anti-Christ 1. Book 5. chap.

But now my Lord, in the last place, let us see, whether Sir *Henry Martines* argument be not directly contrary to the fift commandement, to the very text, whence it is taken. The question is, whose duty it is, to Preach the Archdeacons visitation sermon, the Archdeacons, or the incumbents. Sir *Henry Martin* out of the fift commandement, would prove it the incumbents duty to preach the Archdeacons visitation sermon, and not the Archdeacons, because

the Archdeacon is the incumbents ſpirituall father, and the incumbents are the Archdeacons ſpirituall ſonnes; and by the fift commandement, the ſpirituall ſonne is to teach the ſpirituall father, and not the ſpirituall father his ſpirituall ſonnes: and therefore by the fift commandement the incumbents, and not the Archdeacon are to Preach the Archdeacons viſitation Sermon.

Confutatio 5. For anſwer hereunto, it is certaine, my Lord, that the fift commandement ſpeakes primarily and literally of naturall fathers and naturall ſonnes, and by conſequence and analogy of ſpirituall fathers and ſpirituall ſonnes: and then if by the fift commandement it be the duty of the naturall father to teach the naturall ſonne, then by conſequence & analogy, it is the duty of the ſpirituall father to teach the ſpirituall ſon: & if by the fift commandement it be the duty of the naturall ſon, to teach the naturall father, then by conſequence and analogie, it is the duty of the ſpirituall ſonne to teach the ſpirituall father. The tenne Commandements for their brevity are called ten words *Deut.* 4. and for that reaſon, in Greeke the decalogue: and therefore if any thing bee obſcure and darke in them, it is to be cleared out of the larger commentaries of Moſes, the prophets, and the Apoſtles; let us then ſee, how theſe divine commentators reſolve this queſtion betweene the naturall father and the naturall ſon and between the ſpirituall father and the ſpirituall ſon.

In the 6. and 11. chapters of *Deut.* God commandeth the Iſraelites, to lay up his words in their hearts, and to teach them their children, when they ſit in their houſes, and when they walke by the way, and when they lye downe, and when they riſe up: and *Proverbs* 1. *Solomon* ſaith, *my ſonne heare thy fathers inſtruction, and forſake not thy mothers teaching*; and *Epheſians* the ſixt chap. 4. verſe. Saint *Paul* ſayes *Ye fathers provoke not your children to wrath, but bring them up in the inſtruction and information of the Lord*: and in the firſt Epiſtle to *Tim.* 2. chap. the ſame Apoſtle delivereth one text which decides the queſtion betweene all kindes of fathers and all kindes of ſonnes: I permit not, ſaith hee, a woman to teach, οὐδὲ αὐθεντεῖν ἀνδρός, nor to exerciſe or uſurpe authority over the man. whence it appeares, that they are to teach others, who have authority over others; and then the naturall father is to teach the naturall ſonne, the ſpirituall father the ſpirituall ſonne, the œconomicall father, the maſter of the family, the œconomicall ſon, & the Magiſtrate, the politick father, the politicke ſonne, and not on the contrary: and Saint *Paul* of purpoſe as it were, interpreting the fift commandement, makes this one reaſon, why the ſpirituall ſonne

is

is to honour his spirituall father. *Let the Elders that rule well, be accounted worthy of double honour, especially they that labour in the word and Doctrine.* 1 *Tim.* 5. and in this very thing consists the spirituall paternity and filiation, they are both wrought by the spirituall seede of Gods word, the spirituall father begets, and the spirituall son is begotten by the spirituall seede of Gods word. Saint *Paul* telles the *Corinthians*, I write not these things to shame you, but as my beloved children I admonish you, for though you have ten thousand instruct rs in Christ, yet ye have not many fathers: for in Christ Iesus I have begotten you through the Gospel. 1 *Cor.* 4. and to the *Gal.* he saith *my little children of whom I travaile in birth againe, untill Christ be formed in you. Gal.* 4. 19. and how is that done? why, by preaching the Gospel. *Gal.* 3. 1. 17. verse. 14. 15. verse.

And therefore my Lord, seeing Sir *Henry Martin* by his chimicall interpretation will extract the contrary out of the fift commandement, & make it every spirituall sonnes duty to teach his spirituall father, the Parishioners duty to teach the incumbents, the incumbents duty to teach the Archdeacon, the Archdeacons duty to teach the Bishop, the Bishops duty, to teach the Archbishop, the Archbishops duty, to teach the Patriarches, the Patriarches duty to teach the Apostles, the Apostles duty to teach Christ, and Christs duty to teach God: I thinke I may truly say, that Sir *Henry Martin* hath found out that: in this commandement, which God never put into it, just as *Anah* found out Mules in the wildernesse, as hee kept his father *Zibeons* Asses. *Gen.* 36. the one found out a creature which God never made; the other a sence, which God never intended. And therefore seeing so eminent a man, so transcendent a lawyer, who was *vox legis, lex legis, rex legis*, and *Deus legis*, a kind of omnipotent Lawyer, who could *creare legem de non lege, & annihilare legem in non legem*, could not yet find out any one good argument, either in the civill or canon Law, no nor in the word of God neither, *nisi afferat scinsum ad scripturam*, and such a sence as is repugnant both to the analogy of the place and of faith too. I thinke it is more than probable that neither the canon, civill, or divine law will afford, my adversaries any one good argument against me in this whole controversie.

The second Argument.

The Defendants second Argument, my Lord, is taken from custome: they say it is the custome, that the Incumbents should preach the Arch-deacons Visitation Sermon. And this they say both in their third Article, and in the first part of their first finall sentence extant in their Plea. And in speeding the Commission at

Canterbury, they brought up ten or twelve Processes to prove this custome. But after they had brought them up, they durst not so much as shew them, either at informations, or at the finall hearing of the Cause. And yet what they cannot prove, my Lord; I out of a desire of peace and concord with them, will voluntarily grant unto them. *Dabo ex supposito, quod non dabo ex animo.* Let it then be custome, what followes? why this; Then the Cause is a civill Ecclesiasticall Cause, and not a criminall Cause, and then it is and hath been all this while *coram non judice*, and so the sentence and whole proceedings of the Commissioners are utterly voyd.

Concessio 1. & retortio in adversarios.

Concessio 2. & retortio in adversarios.

Secondly, be it custome, then the Arch-deacon hath broken the custome and not I; for the Commissioners in the first part of their first finall sentence extant in their Plea, made an Order, that I upon the Arch-deacons Mandate, and a competent warning thereby to me given, should preach a Sermon at the Arch-deacons next Visitation. Now this Order is the custome, or else it is not. If this Order be not the custome, then I being bound to observe the custome, am not bound to observe this order: or else being bound to observe this order, I am not bound to observe the custome. Let them chuse which they will, they are faulty in either. If this Order be the custome, then the Arch-deacon, and not I, hath broken both Order, and custome; because he only sent an Apparitor with a postscript private letter, or message to warne me to preach his Visitation Sermon; but sent no mandate, or processe, or publike instrument for that purpose, out of his Court by his Apparitor, as he should have done, both by the Order and custome; and both these the Defendants confesse in their Plea, and they shall be both shewed against them at large, in my answer to to the fourth accessory.

Confutatio 1.

Thirdly, it is not custome; for if it be custome, then it is custome contrary to the 36. 49. and 52. Canons made 1. *Iacobi*, that is, about 39 years since; and then it must be custome either before those canons were made, or else only since. If it were custome before those canons were made, then it was before that time tried and obtained in some contradictory judgement; for *consuetudo non valet, nisi sit obtenta in Contradictorio judicio.* Now can the Defendants shew any contradictory judgement before that time, wherein this pretended custome was determined to be custome? If they can, let them shew it, and I submit: If they cannot, *idem est non esse, & non apparere.* If it were not custome before the former Canons were made, it cannot grow to be a custom since. Nine and thirty years prescription, is not sufficient to make a custome, for *consuetudo est, cujus*

contrarium memoria hominum non existit, and if this custome be but of 39. years standing, there are divers men yet living, which can remember the contrary.

Nay, my Lord, seeing a custome cannot grow in the time of opposition; if we will make an exact computation, we must from the former 39. years, defalke full 16. years, because so long this controversie hath been on foot, and this custome oppos'd. And then at the begining of this controversie, there remains but 23. years, since the making of the former Canons, and since the begining of this pretended custome, if it began since those Canons were made. And then at begining of this controversie, this pretended custome, being but of 23. years standing, could not be custome according to the former rule; seeing at the begining of this controversie, there were divers men then living, who could remember the contrary.

But in the fourth place, my Lord, let it be custome, and a tried and determined custome in a contradictory judgement; and that before those Canons were made: yet by those Canons it is abrogated. For cannot an Act of Parliament cut off a known custome of *England*, tried and determined in a contradictory judgement at the Common Law? There is I suppose, no question of it; and the reason as I conceive is, because all the parties that have right in that custome, are either personally, or vertually present in Parliament, and there by making a contrary Act, give up their right to that custome; and then by the same reason, seeing none had right in the former custome, but the Arch-deacons, Bishops, and Arch-bishops on the one side, and the Incumbents under them on the other side; and the three former, were personally present in a provinciall Synod, and the others vertually present in the Clerks of the Convocation and all on both sides, by making the former Canons, gave up their right to the former custome, that custome is, and must be abrogated by the former Canons. Concessio 3. & Confutatio 2.

But in the fift place, my Lord, it cannot be custome: First, because it is contrary to the Word of God, as appears by my three first arguments. Secondly, because it is contrary to the whole course and tenour of the Canon Law; in the body of the Canon Law, in *Lyndewodes* provinciall, in the Legantine Constitutions of *Otho* and *Othobon*, and in our last Canons, all which I have formerly shewed. And lastly, because it is contrary to naturall equitie. and *contra naturalem aequitatem nulla valet consuetudo etiamsi omnes homines de mundo aliter facerent*, saith the Canon Law. Confutatio 3.

Now this rule of naturall equity, is deliver'd by our Saviour, *Luke* 10, 7. *The labourer is worthy of his hire*, which is true, *e converso*, he that hath the hire, is bound to performe the labour. And this labourer is the Visiter, and his labour is to Visit, that is to preach, and to correct, and his hire for that labour, is Procurations: and all these I have formerly proved. It is then contrary to naturall equitie, for us to detain Procurations from the Visiter, when he Visits us, that is preacheth unto us, and correcteth us. It is likewise contrary to naturall equity, for the Visiter to require Procurations, when he doth not Visit, that is preach and correct. It is most apparently contrary to naturall equitie, for the Visiter to require Procurations of the Incumbents for Visiting them, that is for preaching unto them, and for correcting them, and yet to impose upon them the Visitation Sermon, the speciall part of that labour, for which the Visiter requireth and receiveth his Procurations of the Incumbents. And upon this ground the Canon Law affirms, *quod in procuratione ratione visitationis debita, non currit præscriptio.* And then there can be no custome to binde the Incumbents, either to pay Procurations, or to preach the Visitation Sermon.

The third Argument.

There is one weake argument my Lord, yet remaining, and that's this. The Arch-deacon is *tanquam oculus Episcopi*; and therefore may enjoyn the Ministers within his jurisdiction to preach his Visitation Sermon, that thereby he may see, and learn, and know their sufficiency.

I do confesse, my Lord, that in the Canon Law, the Arch-deacon is called *oculus Episcopi*, and which is more, *vicarius Episcopi*. And I have often wondred, why they should so much presse the former, and wholly passe over the latter; and the reason as I conceive, is this: The latter, gives not only some part of Episcopall authoritie to the Arch-deacon, but also bindes him to performe some part of Episcopall duty. Now the Bishops duty, he being Rector, *totius Diœcesis*, and having *curam animarum* is to Visit his Diœcesse, and to preach to, and instruct all there, and to reforme those that are faulty, and this much the name of Vicar imposeth upon the Arch-deacon; for *Vicarius tenetur implere vicem ejus, cujus est Vicarius.* And therefore Master Arch-deacon doth willingly omit this title, because this doth binde him as well to preach and correct at his Visitation, as give him power to hold a Visitation under the Bishop. He only insists upon this title of *oculus Episcopi*, as if he were tied not to preach himselfe, but only to see the Incumbents

preach

preach, and that not in their parishes, at their own Cures, but at the Visitation, his Cure.

But what force the former title hath, the Canon law which gives it him, will best shew. It was first given to the Deacons, and then to the Arch-deacons. *Decreti* 1. *parte. Dist.* 93. *cap.* 6. we have these words, *Diaconi Ecclesiæ, tanquam oculi sunt Episcopi, obertantes & circum-lustrantes cum verecundia actus totius Ecclesiæ, & perscrutantes diligentius, si quem videant vicinum præcipitio, & proximum esse peccato:* and the glosse upon that Text notes, *quod loco Diaconorum successerunt Archidiaconi, qui dicuntur oculi Episcopi, quia perlustrant.* Constatio.

Now could the Deacons, because they were *oculi Episcopi*, enjoyn the Presbyters to preach a Visitation Sermon? They could not, and if they could not; neither can Master Arch-deacon do it, by vertue of that title which was theirs, before it was his. All that was thereby required of them, was to go about, & to observe with modesty, what was done in the whole Church, and to marke and view diligently, if any man ran head-long into sinne and wickednesse, and to certifie the Bishop thereof; and in this sence, let the Arch-deacon be *oculus Episcopi* in Gods name, and be as vigilant to prevent sin, and to recover sinners, as may be. But this gives him no power to command the Incumbents to preach at his Visitation; but only to observe how they lead their lives, and how they discharge their Cures; and if he finde them defective in either, then *tanquam oculus Episcopi* to inform the Bishop thereof.

And how ever, my Lord, it cannot be denied; but that the Arch-deacon by the abuse of this title of *oculus Episcopi*; that is, by wincking at the faults of some Incumbents, and by prying into, and aggravating the faults of others; hath drawn divers Incumbents to preach his Visitation Sermon, which else would not: yet there is no such power or vertue in the title it selfe, but rather the contrary, as will appeare out of the Decretalls, *lib.* 1. *tit.* 23. *De officio Archidiaconi, cap.* 7. which sets downe the severall respects, in which the Arch-deacon is called *oculus Episcopi*. I will alleage the words at large.

Oculus Episcopi Archidiaconus appellatur, ut loco Episcopi per Episcopatum prospiciens, quæ corrigenda viderit, corrigat & emendet. & institutio corporalis tam super beneficiis quam etiam dignitatibus, ad ipsum debeat pertinere. Examinatio etiam clericorum, si fuerint ad sacros ordines promovendi; Et hoc idem in collationibus beneficiorum

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beneficiorum credimus observandum; Vt qui beneficijs Ecclesiasticis præficiendi fuerint, a suo prius examinentur Archidiacono, & per ipsum post Episcopo præsententur.

In this text, my Lord, the Arch-deacon is called *oculus Episcopi*, in these three respects. First, because in the Bishops stead, he is to looke over the whole Diœcesse, and to correct and reforme such things as are out of order, or else to inform the Bishop thereof. Secondly, because he is to examine the Clergie at their Ordination, and according to their deserts; either to turn them backe, or else to present them to the Bishop: and this much likewise is given to the Arch-deacons in our Church, as appears by the booke of ordering Bishops, Priests and Deacons. And thirdly, because the Arch-deacon is to do the like at the Collation of Benefices; that is, before the Bishop admits and Institutes into Benefices, and then to induct those, whom the Bishop upon his commendation admits and Institutes.

All the power then, that the Archdeacon hath by being *oculus Episcopi* is either a generall power to observe and reform all faults over the whole Diœcesse, or to inform the Bishop thereof; or else a more especiall power to examine the Clergie at their Ordination and Institution, but not to enjoyne them then and there to preach. And seeing the Arch-deacon at Ordination and Institution, can discover the sufficiencie of the Clergie by examination, without hearing them preach; why may he not by the same course, do the like at the Visitation? Nay, why should he at the Visitation, go about by examination, to question the sufficiency of those Incumbents, whose sufficiency he had before discover'd and approv'd, both at their Ordination and Institution? However, this is certaine, my Lord, that the Arch-deacon by that Text and title, hath no more power at the Visitation, than he had at Ordination and Institution: And therefore seeing at these latter he hath by the foresaid Text and title, a power only to examine the Clergie, that's the utmost that he can challenge at the former, as *oculus Episcopi*.

But see my Lord the Art and wisedome of Master Archdeacon, or rather his deceit and subtilty in interpreting the former text. To examine the incumbents at his visitation, which by the former text and title he may doe, would be to his trouble; to command them then and there to preach, which by the former text and title he may not doe, would be for his profit and ease: therefore in the foresaid Text, by a verball transmutation he would convert examination into preaching, and Ordination and Institution into Visitation.

don. And ſo where the Canon Law ſaith, that he is to examine us at our Ordination and Inſtitution; he would make it ſay, that we are to preach to him and for him at his Viſitation: where the Law ſaith, that this eye is to looke into the Clergie by examination at their Ordination and Inſtitution, that is, before their preferment: He would make it ſay, that this eye is to looke into them after their preferment, by hearing them preach at the Viſitation; as if their preferment were to go before their tryall and not their tryall before their preferment.

But my Lord, this is not *oculum agere*, to perform the part of an eye; or if it be, it is of a weak and dimme ſighted eye, which takes one thing for another, like the blinde man in the Goſpel, who in the begining of his cure, *ſaw men walke like trees*, *Marke* 8. For I can never think that eye, whoſe ſo ever it be, quick-ſighted, nor fit to be *oculus Epiſcopi*, which cannot diſcern examination from preaching, and Ordination and Inſtitution from Viſitation.

And ſo my Lord, for a farwell to the Principals; I leave it to your Lordſhip, and the Court to conſider whether the Commiſſioners were not invited by the preſumption of their own ſtrength, and of my weakneſſe, to uſe the foreſaid arguments, which upon examination make quite againſt them: Or whether they were not at that time like men in danger of drowning, who being taught by nature to do their beſt to ſave themſelves, and yet being deprived of the right uſe of their ſences, do divers times ſeeke helpe, and lay hold on things that hurt them, and keepe them under water, and thereby drown themſelves the ſooner.

And thus much concerning the principalls, and the Defendants three Arguments. I now proceed to the acceſſories. And here my Lord, ſeeing the Defendants have falſified the Law in the principals, your Lordſhip, and the Court are not to give credit unto them, concerning the acceſſories: ſeeing in the principalls they have called my obedienc to the Word of God, to the Articles Statutes, Canons, to his Maieſties Letters Patents, royall Prerogative, and oath of Supreamacie (which are all extant to the view of the world) a breach of Canonicall obedience, a principall or eſpeciall fault, a grievous and enormous crime; they are not according to their own Law, to be credited concerning any fact, they charge me within the acceſſories; for *qui ſemel eſt malus ſemper præſumitur malus in eodem genere mali* and *qui ſemel veritatis & verecundiæ limites tranſilierit, eum oportet eſſe gnaviter impudentem, nec ei deinceps* The acceſſories.

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nisi paenitenti, culpam confitenti, & veniam expetenti, est in aliquo credendum.

But my Lord, though according to these axioms, the defendants are not to be credited in any of the accessories, because they have falsified the Law in the principalls. Yet I labour not to impeach their credit in all, but in one only circumstance, which runs through the three first accessories, which is grosly and palpably false, and contrary to the Records of their own Court. For whereas in the first accessorie, they charge me, that I came unsent for, or uncall'd for, to Master Arch-deacon aforesaid he being in his Visitation among the Clergie; and sitting there to heare Causes: and in the second accessorie, that I did then and there charge the said Arch-deacon of falshood and injustice: and in the third accessorie, that I did at the same time and place lay down an hundred pounds in gold upon the table, and offered to lay wagers with him the said Arch-deacon, that he had done me wrong, or the like in effect. I confesse I did these three, but not at the same time and place, not whil'st Master Arch-deacon sate in his Visitation to heare Causes; but afterwards, as will appear by these three circumstances.

The Visitation is alwaies kept in Saint *Margarets* Church in *Canterburie*; this was in the parlour of the Checker Inne in *Cant.* The Visitation is alwaies begun, continued and ended in the forenoone before dinner; this was in the after-nooneafter dinner. At the Visitation are present both Clergie and Laity, the Ministers and the Churchwardens; here were present the Clergie only; and the Defendants themselves in their Plea mention only the Clergie: the Arch-deacon, say they, being in his Visitation among the Clergie, not amongst the Laity. And it is evident by the Records of their own Court, and by the testimony of their own witnesses, Dr. *Say*, and *Henry Jenkins* that these things were said and done in the Checker Inne in *Canterburie* after dinner and not in Saint *Margarets* Church at the Visitation. And it appeares likewise by the submission enjoyned me; for by their own Order that submission was to be uttered before the Clergie in the dining roome before dinner, and not in Saint *Margarets* Church, at the Visitation. And beside I here make oath in truth in justice and in judgement, that these three accessories were said and done, not in Saint *Margarets* Church at the Visitation, but in the parlour of the Checker Inne in *Canterburie*, where I never yet knew any Visitation kept by Master Arch-deacon.

And

And now my Lord, this one circumstance being confuted; what fault was it for me to come to Master Arch-deacon in the Checker Inne uncall'd for, or unsent for? might not I, in the parlour of the Checker Inne after dinner, come uncall'd, or unsent for to Master Arch-deacon, with whom I din'd, as well as come to your Lordship, and to these my honored Judges, at the side-Barre in this Hall, nay in this very Court, uncall'd, or unsent for? I am sure your Persons and places are more eminent, and your imployments more, and weightier; and yet I, and some others as meane as I, have come unto you, and gone from you, in both these places without offence. The first accessorie.

Or did I offend in charging the said Archdeacon with falshood, wrong, and injustice? nothing at all. For I have before shewed, how under the name of Canonicall obedience, he would have brought in arbitrary and blinde obedience, and the worst part or kind therof; not that only which is uncanonicall, pretercanonicall, or ultracanonicall, but that also which is anticanonicall, or contracanonicall. A thing repugnant to the Word of God, to the doctrine and discipline of this orthodox Church, to the Prerogative royall of the Crown, and to the freedome and liberty of every free-born Subject. Is not this falshood, wrong, and injustice? I have before shewed, how he hath advanced his apocryphall, uncanonicall, anticanonical, antidiplomatical, antiprerogative antisuprematicall postscript, private letter and message, above the Canons of this Church, his Majesties Letters Patents, and royall Prerogative; above a royall Prerogative invested in the Crowne by God himselfe; acknowledged by Article, by Statute, by Canon, nay, above a royall Prerogative, which he and I by the oath of supremacy, are both bound to the utmost of our power to defend and maintain; and yet he hath violated it, and would have made me have violated it, as he hath made many others. Is not this falshood, wrong, and injustice? The second accessorie.

Yea but though it be; yet peradventure I might not tell him so much. Yes, my Lord, I was bound to tell him of it by the Word of God, by the Canon Law, by the law of Nature, and by the oath of Supremacy. The Word of God, *Levit*, 19. 17. saith, *Thou shalt not hate thy brother in thy heart, but thou shalt plainly reprove him, and not suffer sin upon him.* So did I. The rule of the Canon Law set down by *Felinus de rescriptis cap. si quando*, is this: *Subdoti debent resistere prælato legem ignoranti instruendo eum, multo*

magis legem violanti, maxime vero legem conculcanti. So did I. The law of Nature bindes every one to challenge and defend his own right, and to repell injurie. So did I. And the oath of Supremacie bindes me to the utmoſt of my power, to defend and maintaine all jurisdictions of the Crown; and therefore this among the reſt, that none of the Clergie in their ſeverall jurisdictions can go beyond, much leſſe contrary to the Canons, without incroaching upon the Prerogative royall, and ſupreame Juriſdiction of the Crowne.

The third acceſſory. The wager.

And this doth likewiſe juſtifie the wager of an hundred pounds, laid down to defend the Kings ſupreame Eccleſiaſticall juriſdiction over the Clergie, to the utmoſt of my power, according as I was, and am expreſſely bound by the oath of ſupremacie. And for that purpoſe I have made choice rather to be find, impriſon'd, depriv'd, degraded, and excommunicated by the High-Commiſſioners, and to endure thoſe tedious delales, and thoſe manifold diſgraces, indignities, and injuries in this Court, than by betraying the Kings ſupremacie to the Arch-deacons uſurpation, with the High-Commiſſioners, this Court, the Barons of the Exchequer, and the Lords of the Counſell, to violate that oath, and ſo to commit perjury; knowing it a thing moſt acceptable in Gods ſight, to endure the greateſt puniſhments for to avoid the leaſt ſin, much more for to avoyd the greateſt ſin; ſo that ſet aſide this one untrue circumſtance, there is nothing at all culpable in theſe three firſt acceſſories.

The manner of ſpeaking and of laying the wager.

And though the Defendants ſay, that I did ſpeake very malepertly, and irreverently to Maſter Arch-deacon, and offered to lay the wager with him in a very arrogant and irreſpective maner; yet ſeeing they mention no one particular evill word or deed, I hope your Lordſhip, after ſo many arguments upon the generall ſentence of deprivation, and degradation, and this argument of mine upon the ſpeciall matter; will remember, that in *generalibus latet fraus*, and *vir doloſus verſatur in univerſalibus*; and will then conceive, that that which they ſay, was ſpoken and done very malepertly, irreverently, and arrogantly, was ſpoken and done diſcreetly, reſolutely, and heroically; that I might to the utmoſt of my power defend the Kings ſupreame Eccleſiaſticall juriſdiction over the Clergy, according as I was, and am expreſſely bound by the oath of the ſupremacie; and then there is no fault at all, either in my words, or wager, in the things or circumſtances.

But now my Lord, though that one circumſtance be falſe, and the

the Defendants according to their own law, are not to be credited in the accessories; because they have fulfilled the Law in the principalls. Yet my Lord, seeing we are now in a demurrer, according to the nature of a demurrer, let all be granted in these three first accessories, that the Defendants themselves affirme. Let the words be uttered very malepertly and irreverently, let the wager be offered in a very arrogant and irrespective manner; let the Archdeacon at the same time be in Saint *Margarets* Church in *Canterbury* at the Visitation among the Clergie, and sitting there to heare Causes. Yet now I will make it appeare by the Defendants owne confession, and by a necessary consequence from their confession, that in these foure accessories, there is no fault at all.

The Defendants, as your Lordship may remember, charge me with six particulars; amongst which they make my refusall to preach the Visitation Sermon, and my maintaining it to be the Arch-deacons duty to preach his own Visitation Sermon, the two principall or especiall faults. And if they two be the principall and especiall faults; then by the force of comparison drawne from the adversaries own estimate, the other foure must needs be inferiour and accessory. And then if the principall and especiall faults be no faults, no breach of any Law; much lesse can the inferiours or accessories be any faults, or any breaches of Law; for *si principalis causa non subsistat, ea quæ sequuntur locum non habent.* Now I have before shewed, that the two principall or especiall faults are no faults, but vertues and eminent vertues, even the vertues of Canonicall obedience; and therefore the other foure being in the Defendants own judgement lesser and inferiour vices, than the two former, they cannot be any faults, but must needs be vertues, and greater and superior vertues. And the Defendants cannot except against this consequence, because it is necessarily drawne from their own estimate and testimony, and *testimonium ab adversario contra se fortissimum.*

Now for the fourth and last accessory; my refusall to performe the submission, *conceptis verbis*, which the Defendants pretend to be a great affront and contempt both to the Kings supremacy, and to the High-Commission authority, seeing therein I was enjoyned to acknowledge my refusall to preach the Arch-deacons Visitation Sermon at the Arch-deacons and Arch-bishops mandate, to be a breach of Canonicall obedience. It is certain my Lord, that if that my refusall to preach that Sermon be no breach of Canonicall obe- The fourth accessory.

dience, then my refusall to perform that submission, *conceptis verbis*, is no affront or contempt either to the Kings, or Commissioners authority. And if I make good the former, the Defendants must of necessity grant the latter.

And for the cleering of this former, it is to be observed; that there is a two-fold Canonicall obedience, the one due to the Canons only, the other to the Prelates mandate according to the Canons. To the former, we are bound by the Canons themselves, and by his Majesties Letters Patents confirming the Canons. To the latter, we are beside bound by the Prelates mandate, and by the oath of Canonicall obedience. The breach of the former, in all such as submit unto the canons, is but only disobedience. The breach of the latter, is not only disobedience, but also contumacie, yea and perjury too, in all them that have taken the oath of Canonicall obedience.

This will appeare, my Lord, by the oath of Canonicall obedience extant in the instrument of my Admission, and Institution (which I have here to shew) wherein the oath runs thus; *Te primitus de legitima & Canonica obedientia, nobis & successoribus nostris in omnibus licitis & honestis mandatis per te præstanda & exhibenda, ad sancta Evangelia rite juratum admittimus*, we admit thee, saith the Ordinary, having first been rightly sworn by the holy Gospels, to perform lawfull and Canonicall obedience to us, and our successours in all lawfull and honest mandates.

In which words, my Lord, it is first to be observ'd, that the thing that I sweare, is not arbitrary and blinde obedience, that is such obedience as the Prelate shall require by his Dictates, whatsoever it be; but lawfull and Canonicall obedience; that is, such obedience as the Canons and Ecclesiasticall lawes of this Land require. Secondly that the persons to whom I have sworn, are only the Bishop and his successours, not the Arch-deacon: and therefore though I am bound to yeeld Canonicall obedience to all the Arch-deacons lawfull and honest mandates, yet I am not by oath bound thereunto; and therefore when I violate his lawfull and honest mandates, I commit only contumacie not perjury. And lastly, that I have not sworne this Canonicall obedience to the Canons themselves; for then every time I broke a Canon I should commit perjury: but only to the Bishop, and his successours mandates not to his words or private letters, or postscripts, or messages; but only to his and his successours mandates; no, not to al their mandates

dates neither, but only to all their lawfull and honeſt mandates.

Now what is a Prelates mandate? A Prelates mandate, ſaith (n) *Lyndewode* is a publick inſtrument out of the Prelates court, made in the Prelates name, under the ſeale of his office, and the hand of a publick Notary. Without ſuch a mandate ſent from the Biſhop to the Arch-deacon; the Arch-deacon, though he hath taken the oath of Canonicall obedience to the Biſhop, is not bound to Induct any man inſtituted by the Biſhop; neither is he in contumacie if he refuſe. But after he hath received ſuch a mandate, if he do then refuſe, he is then both in contumacie, and perjury too. And of theſe mandates, I have two out of the Arch-deacons Court here to ſhew; one for my Induction, another to reverſe a ſuſpenſion. And ſuch mandates are daily ſent out of the Arch-deacons and Biſhops Courts, to command us to publiſh the excommunications, and other cenſures of their Courts againſt our Pariſhioners; and upon our Pariſhioners ſubmiſſion and reformation, there comes out other mandates, commanding us to publiſh the abſoiling, acquitting and reſtitution of our Pariſhioners, and the abolition or abrogation of the former cenſures. And ſo likewiſe there are daily ſent out mandates or proceſſes, commanding both us and our Pariſhioners to appeare at our Prelates Courts. And all theſe mandates are agreeable unto the former definition of a Prelates mandate, given by *William Lyndewode*.

And of theſe mandates, the Canon Law makes two (o) ſorts; there is *mandatum pro apparendo*, and *mandatum pro parendo* a mandate for appearing, and a mandate for obeying. And ſo accordingly there is a two-fold contumacie, *contumacia in non apparendo* and *contumacia in non parendo*; a contumacie in not appearing, and a contumacie in not obeying. The contumacie in not appearing, is

(n) Provincialis lib. 3. de Inſtitutionibus & commendis. cap. 1. verbis. Archidiaconis ſuis. Extorqueri. & cap. 3. Verb. ſuperioris. & tenentur. See 120. 122. 124, Canons. Such are the mandates in the Kings-Bench, their habeas corpus, their Latitats, Capias, and other mandates, and theſe are made in the the Kings name, and ſubſcribed with the chiefe Iuſtices hand, and ſealed with the ſeale of the Court. And ſuch are all the proceſſes, mandates, letters Miſive, Decres of the High-Commiſſion Court, and ought to be ſuch, as appears by the latter part of their Commiſion, and I have one of their mandates or letters miſive here to ſhew.

A Writ is the Commandement of the King, formed in Latine; directed either to ſome Miniſter of his Courts, or ſometime to the party Defendant, at the purſuit of the Plaintiffe, for the better adminiſtration of Iuſtice. Writs touching their forme are breiſe and ſhort, and therefore are called in Latine Brevia; in French Breifs, for their ſhortneſſe, in Engliſh Writs, for that they are ſhort mandates in writing. Iudge Dodrige in his Engliſh lawyer, p. 43:

(o) Clementinarum lib. 2. titulo de Dolo & Contumacia, cap. unic. verbo manifeſte. Contumax in non veniendo non appellat. Contumax in non parendo, appellat. quod iſte peccat in uno tantum, ille in duobus. Quod intelligo, quia iſte venit, ſed non paret. ille nec venit, nec paret.

Decre-

Decretal. lib. 2. titulo 14. de Dolo. & Contumacia cap. 4. verbo. Contumaciter. Contumax est, qui cum debet parere, non paret. Ibidem cap. 2. verbo Contumaciter. Multis modis committitur Contumacia, quandoque attenditur respectu non venientis, quandoque respectu non restituentis, quandoque respectu non respondentis, vel obscure respondentis, quod idem est, ac si non responderet; quandoque respectu non iurantis, quandoque respectu recedentis infecto negotio, & quandoque respectu non exhibentis; unde versus. Non veniens, non restituens, citiusque recedens. Nil dicens, pignusque tenens, iurareque Nolens. Obscureque loquens, isti sunt iure rebelles. Quibus adde alios versus eodem libro. ut lite non contestata, &c. tit. 6. Casibus in tribus his, quis dicitur esse rebellis. Impedit, occultat, iussis parere recusat.

committed when we violate the Prelates mandate for our appearing at his Court. The contumacie in not obeying, is committed, when we violate the Prelates mandate, enjoyning us to obey some act of his Court: and without one of these mandates first had and received, neither of these contumacies can be committed.

Now with what contumacy do the Defendants charge me? not with any contumacy in not appearing: neither can they, for neither did the Archdeacon, no nor my Lords Grace neither, send out any mandate, to command me to appeare, either at their Archidiaconall, Episcopall, or Archiepiscopall Courts, and I alwaies observed the mandates of the High-commission court for my appearance. So that they neither can nor do charge me with any contumacy in not appearing. They onely charge me with contumacy in not obeying the Archdeacons and Archbishops mandates, commanding mee to preach the Archdeacons visitation sermon.

This appeares my Lord out of their owne sentence for in the first part of their first finall sentence, alleaged in their plea, the defendants say; *Super aperientiam causæ, ipsi invenerunt Georgium Huntley specialiter oneratum in articulis prædictis cum duobus particulariis, primo pro recusatione ad prædicandum visitationis sermonem, ad requisitionem & mandatum Archidiaconi diacesis, scilicet prædicti Willielmi Kingsley in Contrarium suæ canonicæ obedientiæ.* And afterward in the first part of that first finall sentence, they say, that I violated the Archbishops mandate in the same matter, *quod quidem mandatum dicti Archiepiscopi, dictus Georgius Huntley, etiam neglexit,* and afterwards in the second part of that first finall sentence, they charge me with perjurie for violating that my Lords Graces mandate.

Now my Lord, if I have violated my canonicall obedience to the Archdeacons and Archbishops mandate, and therein have committed disobedience, contumacy and perjury, as the Defendants pre-

pretend: then I have violated ſome Canon, and ſome Canonicall mandate of the Archdeacons and Archbiſhops, Canonicall both for forme and matter; where theſe three concurre, a Canon and a mandate Canonicall, both for forme and matter: there if the partie that breaks them, hath taken the oath of Canonicall obedience, he committeth anticanonicall diſobedience, contumacie, and perjury. But where the firſt of theſe is wanting where there is no Canon, there, there cannot be a Canonicall mandate for matter: and though there may be a Canonicall mandate for forme; yet when the other two are wanting, the breach of that only, is neither contumacie, nor perjury; no, nor any anticanonicall diſobedience neither; much leſſe can there be any anticanonicall diſobedience, contumacie, and perjury, when all the three former are wanting.

Now let us ſee, my Lord, which of the three former, the Defendants can ſhew againſt me. Firſt, can they ſhew any Canon that bindes me to preach the Viſitation Sermon? No, the Canons, as I have before ſhewed, binde every Viſiter, every Archdeacon, Biſhop and Archbiſhop to preach his own Viſitation Sermon, Licenſed Preachers, to preach at their own Cures only, and forbid me, and ſuch as I am, that are not licenſed Preachers, to preach, or expound any Scripture, in our own Cures or elſe-where.

Secondly, can the Defendants ſhew any mandate Canonicall for matter, ſent from the Archdeacon, or Archbiſhop, to command me to preach the Viſitation Sermon? Why, that's impoſſible; for ſeeing the Canons do not only not command, but forbid me to preach at my own Cure, or elſe-where. The mandate that commands me to preach at the Viſitation; muſt of neceſſity be for matter, not only uncanonicall, pretercanonicall, or ultracanonicall but alſo anticanonicall, or contracanonicall.

Thirdly, and laſtly, can the Defendants ſhew any mandate, Canonicall for forme, of the Archdeacons, or of his Graces, ſent unto me, to command me to preach the Viſitation Sermon? If they can then they can ſhew ſome publicke inſtrument out of the Archdeacons, or Arch-biſhops Court, made in the Arch-deacons, or Archbiſhops name, under the ſeale of their Office, and the hand of a publicke Notary, commanding me to preach the Viſitation Sermon. If they can do ſo, though that mandate for matter be not only beyond the Canons, but contrary to the Canons; and their mandates ought not to exceed the Canons: yet let them onely

shew, that canonicall mandate for forme, that publicke instrument out of the Archdeacons, or Archbishops court, made in the Archdeacons, or Archbishops name, under the seale of their Office, and the hand of a Publick-Notary, commanding me to preach the Archdeacons Visitation Sermon: and I will be so indulgent unto them, that I will acknowledge my selfe culpable of contumacie, in disobeying such a canonicall mandate of the Arch-deacons for forme, though uncanonicall, and anticanonicall for matter; and both of contumacie, and perjury, in disobeying such a canonicall mandate of his Graces for forme, though uncanonicall, and anticanonicall for matter. Can they do it?

No, no, my Lord, in their Plea, the Defendants confesse the contrary; they only mention three private letters written to me, to require me to preach the Visitation Sermon, one from his Grace in the seventh Article, another from Sir *George Newman*, the Archdeacons Officiall, in the ninth article; and another from the Archdeacon himselfe in the eleventh article.

But private letters, my Lord, are no canonicall mandates for forme: neither am I tied by oath, to performe canonicall obedience to the Prelates private letters, but only to his mandates; to the publicke instruments out of the Prelates Court, made in the Prelates name, under the seale of his Office, and the hand of a Publicke-Notary: and unlesse the Defendants can produce some such canonicall mandate for forme, sent unto me, to command me to preach the Visitation Sermon; they cannot make any shew or colour, that I have committed either any contumacie, or perjury; no, nor any anticanonicall disobedience neither.

Nay my Lord, unlesse the Defendants can shew such a canonicall mandate for forme, sent from the Archdeacon to me, to command me preach his visitation Sermon, they cannot make any shew or colour, that I have broken the order of the High Commission Court, in refusing to preach the Archdeacons visitation Sermon. For in the first part of their finall sentence, given the eighth of *Feb.* 1626. the High Commission Court made an Order, that upon the Archdeacons mandate, and a competent warning thereby to mee given, I should preach a Sermon at the next visitation, to be holden by the Archdeacon. These are the very words of their sentence or Order upon record in this Court. *Nihilominus dicta curia alta commissionis, ad tempus illud reservans sibi ipsis eorum ulteriores censuras, prout occasio oblata foret, pro eo tempore tantum modo ordinavit*

vit

eis ipsum dictum Georgium Huntley, super mandatum prædicti Archidiaconi Cant. super competenti monitione ei danda, ad prædicandum sermonem ad proximam visitationem, tenendam per magistrum Archidiaconum Cantuarien. So that by their owne Order extant in the Defendants plea, I was not bound to preach that next visitation Sermon, *nisi super mandatum Archidiaconi Cant. & super competenti monitione mihi danda.* But upon the Archdeacons mandate, and upon competent warning, thereby to me given; So that by their owne order, the Archdeacon was first to send his mandate to the Apparitor, and then the Apparitor by vertue of that mandate, was to warne mee, to preach that next visitation Sermon.

Now did the Archdeacon at that his next visitation send out such a mandate, such a publicke instrument out of his Court, made in his owne name, under the seale of his office, and the hand of a publicke notary, to his apparitor, to enable him to warne me to preach that his next visitation Sermon? can the defendants shew any such mandate or processe, sent from the Archdeacon to the Apparitor for that purpose., No, no, my Lord, the Defendants confesse the contrary in their plea: they acknowledge in the second part of their first finall sentence, given the nineteenth of *Aprill* 1627. extant in their plea, that *George Huntley* then alleaged in his owne behalfe, *quod Præditus magister Archidiaconus non admonuisset eum per legalem processum*: and they grant it, that there was no legall mandate or processe, sent by the Archdeacon to the Apparitor for that purpose; so that by their owne confession in their plea, in refusing to preach that visitation Sermon, I have neither committed any anticanonicall disobedience, contumacy, nor perjury, no nor transgressed the order of the High-commission court, because there was no processe or mandate sent from the Archdeacon to the Apparitor, to warne me to preach that sermon, as there should have beene according to their owne Order.

What then doe they alleage against me? onely this my Lord; That it appeared to the Court by affidavit made, *quod præditus Magister Archidiaconus dedisset ei sufficientem admonitionem per publicum officiarium.* That Master Archdeacon had sent an Apparitor, or publicke officer to warne me, to Preach the Visitation Sermon. There's the warning indeed, given by the apparitor, and I confesse it: yea but where is the Archdeacons mandate or processe to the apparitour, to enable him to warne me to preach that sermon? That my Lord is either shrunke in the wetting, or lost in the carry-

ing, for they themselves grant, that that apparitour or publike officer, had no mandate or legall processe from the *Archdeacon*, to warne me to preach that sermon.

And then my Lord, how have I transgrest either the Archdeacons mandate, or the order of the High-commission Court, or what authority had that apparitor, or publik officer, to warne mee to preach that Visitation Sermon? just: one at all, as appeares by the 138. canon, made 1. *Iacobi* where it is said, all apparitors shall by themselves faithfully execute their offices, neither shall they by any colour, or pretence whatsoever, cause or suffer their mandates to bee executed by any messengers or substitutes.

In which words my Lord it appeares, that an apparitor doth then faithfully execute his office, when he doth faithfully execute his mandates, that is, neither goe beyond, nor come short of his mandates, so that the apparitours have no power to warne or summon any man with out such a mandate.

No, nor the Bishop, Chancellour, Archdeacon, Officiall, nor any other Ecclesiasticall Judge, as appears by this 120 Canon. No Bishop, Chancellour, Archdeacon, Officiall, or other Ecclesiasticall Judge, shall suffer any generall Processes of *Quorum nomina*, to be sent out of his Court, except the names of all such, as thereby are to be cited: shall be first expressely entred by the hand of the Regester or his deputy, under the said Processes; and the said Processes and names be first subscribed, by the Judge, or his deputy, and his seale thereto affixed. So that whensoever any Bishop or any other Ecclesiasticall Judge, will cite any man to appear before him; he must send out by his Apparitor a mandate, or processe and therein the name of the party to be cited, must be first entred by the Regester, or his deputy, and then subscribed by the Judge, or his deputy, and his seale thereto affixed.

And if any Ecclesiasticall Judge whatsoever, shall by his Apparitor without such a processe or mandate, Summon any man to appeare before him, the party is not bound to appeare; and though he do not appear, yet he is not culpable of any contumacy, as appears by this 122 Canon.

When any Minister is complained of in any Ecclesiasticall Court belonging to any Bishop of this Province, for any crime: the Chancellour, Commissary Officiall, or any other, having Ecclesiasticall juri diction, to whom it shall appertaine shall expedite the cause by processes, and other proceedings against him; and upon contumacy for not appearing, shall suspend him. First

First then, after complaint made against any one, the Judge must cite the party by processe to appeare before him; if the party obey not the processe, he is then contumacious; but without processe there is no contumacy.

If your Lordship shall aske me what authority the Apparitour pretended when he warned me to preach the said Visitation Sermon, I answer, that he pretended a processe or mandate from the Archdeacon: and it is true, my Lord, that he had a processe and mandate from the Archdeacon, and yet no processe or mandate from him. He had a processe or mandate to warne me to appeare at the Archdeacons Visitation, and there to pay my procurations due to him for Visiting; and that processe or mandate was a publicke instrument out of the Archdeacons Court, made in the Archdeacons name, under the seale of his Office, and the hand of a publicke Notary.

But he had no such mandate or processe, to warne me to preach the Archdeacons Visitation Sermon; but only an * apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antiluprematicall postscript in these very words; You are to warn *George Huntley* Parson of *Stouremouth*, to preach at the time and place above mentioned.

And this postscript set under the processe, after the test and Registers hand was made in no mans name, subscribed with no mans hand, confirmed with no mans seale, and is contrary to the Canons both for forme, and matter: for matter, to the 49 Canon, which forbids me being no licensed preacher, to preach, or expound any Scripture in mine own Cure, or else-where: for forme, to the 120 Canon, which forbids any thing to be written under a generall processe of *Quorum nomina*, such as that was: but only the names of the parties to be cited, and those names must first be entred by the Regester or his deputy, under the processe, and then subscribed by the Judge, or his deputy. Here were not only names, but also new matter; namely, the preaching of the Visitation Sermon; and yet neither names, nor matter, either entred by the Regester, or his deputy, nor subscribed by the Judge, or his deputy.

* In this particular, Doctor Kingsley, and the Commissioners are more Popish and presumptuous, than the Pope himselfe. For the Pope sends out only his Bulls, Diplomaes, or Mandates, formally and regularly made, sign'd, and seal'd without any postscript, according to this old proverb, Mittit plumbum, exigit aurum; but these together, with their Mandates, or Processes, send out their said Postscripts; and thereby they will abrogate the Word of God, the Articles, Statutes, Canons, his Maiesties Letters Patents, royall Prerogative, and oath of Supremacie; Iust as the Pope presumeth to do with his Bulls. And for the violation of these Postscripts, they will Fine, Imprison, Deprive, Degrade, and Excommunicate; which is a Popery, pride, and presumption more than papall.

Unto this warning thus given by the Apparitour, by vertue of his vicious postscript, I gave only this answer; that on the morrow I would send my answer in writing to Master Archdeacon, and on the morrow I sent this letter to Master Archdeacon, and he received it, and it was read in the High-Commission Court by Doctor Ducke, one of the Advocates for the Office against me, the 19 day of *Aprill*, 1627. when the second part of the first finall sentence was given against me, and I Fined five hundred pounds, and first imprisoned.

To the Right worshipfull, Mr Doctor *Kingsley* Archdeacon of *Cant.* give these.

Sir,

I *Marvell, that being a member of the High-Commission, you should not better observe the order of that Honorable Court. Their order is, that you must command me to preach a Visitation Sermon, and that I must obey your command, and this they say is the custome. And therfore as I must obey according to custome, so you must command according to custome. What the custome in this point is, Sir* George Newmans *answer* ad septimum articulum *declares; who there deposeth, that for these thirty years of his own knowledge, the Archdeacon of* Canterbury *for the time being, hath sent Processe by his Apparitor, to command the Ministers to preach at his Visitation. Do you observe this custome, command me by Processe to preach at your Visitation, and I will preach a sermon for your Visitation, as effectually as I can. Your Apparitor shewed me Processe, and no Processe; Processe to command me to appeare at your Visitation, no Processe to command me to preach at your Visitation. When you conceive meanly, and not evilly of me, you conceive as I my selfe do, and both aright; yet if I may speak it without arrogancie, I am not so stupid and obtuse, but that I can discerne betweene the Text, and a marginall Note; which corrupts the Text, betweene the Canon, and the Apocrypha; betweene the Processe for my appearance, made in the Archdeacons name, confirmed with the publicke seale of his Court subscribed with the hand of his Register, and an unwarrantable and an unjustifiable additament or postscript, which hath neither hand or seale unto it: whose Author is anony-*

mus,

man, whose authority apocryphall, which hath no warrant or foundation in the Processe, nay, which quite out-strips the Processe. The Processe commands me only to appeare, and pay procurations; which saith your Processe, are due to you for Visiting; this is, saith the Canon Law, for preaching and correcting. Decretal. lib. 3. tit. 39. De Censibus &c. cap. 23. parag. Porro. & Sexti Decretal. lib. 3. tit. 20. De Censibus &c. cap. 1. par. Sane. & par. Hanc autem. *But the postscript commands me to preach, which is more than to appear; It is to appear, and to do something else, namely, to performe one part of the Visiters duty, for which I pay my procurations. If you cannot command me to appeare without Processe, can you command me to preach (which is more than to appeare) by a postscript, which is lesse than Processe, which is no Processe, no part of your Processe? If you command me by Processe to pay procurations; which say you, are due to you for Visiting, that is, for preaching and correcting? Will you by a postscript command me to do your principall duty, namely, to preach at your Visitation, for which I pay my procurations? This postscript then is faulty, in a double respect; it exceeds your Processe, and is contrary to your Processe. It exceeds your Processe, because it commands me to preach at your Visitation, your Processe commands me to appeare only. It is contrary to your Processe, because it makes it my duty to preach at your Visitation, your Processe makes it yours. It is your duty to visit, that is to preach and correct, and for that it requires procurations. And what small authority your Processe and postscript have, to compell me to preach at your Visitation; the wisedome of your Advocates may teach you, who would not produce either in open Court, although they were thereunto urged by my Counsell; for thereby they should have discovered your most palpable usurpation, who command that by postscript, which you dare not do by Processe, and yet pretend you doe it by Processe; because the Processe and postscript are both written upon one sheet of paper, although the postscript hath no correspondencie with the Processe, because it is not made in your name, confirmed with the seale of your Office, subscribed with your Regesters hand, neither hath any warrant or confirmation in or by the Processe. If you will have me take this postscript for a Processe, you must either put it into the body of the Processe, or else like a Processe, make it in your owne name, confirme it with the seale of your Office, subscribe it with your Regesters hand, and then I will take it for Processe, and obey it as Processe. Without one of these*

you

you neither observe the order of the Court, nor the custome, which you strive for; and in your breife alleage Sir George Newmans *testimony to prove it. Do you observe both these and I will breake neither. And so desiring you to command me by Processe to preach at your Visitation or to provide a Sermon elsewhere, I commend you to the Almighty, and rest*

Steuremouth, *Feb.* 23. 1626. *The next day after the Apparitor was with me.*

Yours according to law, custome & canonical obedience,
GEORGE HVNTLEY.

Now may it please your Lordship, to knit and unite these severalls together; Canonicall obedience, is such obedience as the (p) Canons require. The Canons do not only not require, but forbid me to preach at my owne Cure, or else-where. The High-Commission Court make an order contrary to the Canons, that I upon the Archdeacons mandate, and a competent warning thereby to me given should preach the Archdeacons next Visitation Sermon, and this say they, is the custome. The Archdeacon sends an Apparitor with an apocryphall and anticanonicall (q) postscript to warn me, but without any mandate; and so neither observes either order, or custome. An Apparitor without a mandate, even by the Canons, hath no authority to warn any man. I writ to the Archdeacon to observe both the custome, and order of the High-Commission, to summon me by a mandate or Processe, and proffer to preach that his next Visitation Sermon. He doth not, he will not, in plain termes my Lord, he dares not.

Is it not most cleare, then my Lord, that in refusing to preach that Visitation Sermon, I have neither transgressed the Canons, nor canonicall obedience, nor the Archdeacons mandate, nor the custome, nor the order of the High-Commission Court, nor the oath of Canonicall obedience, and therefore am most free, not only from contumacie and perjury, but also from all anticanonicall disobedience?

All this is most cleare and evident. And why then, my Lord, should I have submitted to the submission, and contrary to a most evident truth, and mine own conscience; have acknowledged my selfe

(p) Ius Canonicum, i. e. ab ecclesia seu viris ecclesiasticis institutum, & dicitur canonicum a Canon, quod est regula: Eo quod tanquam regula recte ducit, nec aliquando aliorsum trahit. vel quia recte regit, & Normam recte vivendi præbet, & id quod distortum, pravumque est corrigit. L. p. lib. 1. tit De Postulando. c. veloces ad audiendum Glossa in Ius canonicum.

(q) Incorrigibilis est, qui revertitur ad priora delicta, vel in eis perseverat, vel qui ter monitus non desistit. Sic sentire videtur Io. An. de iudi. c. cum non ab homine. Et concordat ibi Antho. de butrio. Lyndewode Pro. lib. 5. tit. de pœnis. c. Item statuimus. verb. Incorrigibilis.

selfe culpable of disobedience, contumacie, and perjury? Nay further, if I had yeelded to the submission, I must have advanced the Archdeacons apocryphall, uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antisuprematicall postscript, above the Canons of this orthodox Church, above his Majesties Letters Patents, above his royall Prerogative, above a royall Prerogative invested in the Crowne by God himselfe, acknowledged by Article, by Statute, by Canon; my, above a royall Prerogative, which I by the oath of supremacy am bound to the utmost of my power to defend and maintain. So that I could not have submitted to that submission, without palpable (r) perjury; and I am sure, that perjury is transcendently unlawfull, and *propter unum illegitimum tota submissio fit illegitima*, especially seeing as it appeares upon Record in this Court, that submission was framed by the Commissioners, in *conceptis verbis*, in a set forme of words; and by their own order, that set forme of words was to be uttered, without addition, or alteration; and therefore any one part thereof being unlawfull the whole must needs be unlawfull.

And so my Lord, it appears, that in refusing to preach that Visitation Sermon, I have not transgressed the order of the High-Commission Court, because the Archdeacon sent no mandate as he should have done by that order; neither if he had, was I bound to performe either that mandate, that order, or the submission enjoyned; because both that mandate, that order, and that submission enjoyned are contrary to the Canons, to his Majesties Letters Patents, and to his royall Prerogative, and supreme Ecclesiasticall jurisdiction of the Crowne; which by the oath of supremacie I am bound to the utmost of my power to defend and maintaine; and against which, no man that hath taken that oath, can speake, plead argue, or give sentence without perjury: neither can any Judge, according to that his oath, to the utmost of his power, defend and maintaine all jurisdictions of the Crowne unlesse in this case of mine, he doth speedily without delay, without procrastination give judgment for the Canons his Majesties Letters Patents, his royall Prerogative, and mine obedience unto them; against that apocryphall uncanonicall, anticanonicall, antidiplomaticall, antiprerogative, antisuprematicall postscript of the Archdeacon of *Cant.* Master Doctor *Kingsley*.

And so my Lord I do conclude, and I do most instantly and most importunately sue, and supplicate to your Lordship, and to these

(r) You made it sacriledge to dispute of the Popes fact, heresie to doubt of his power, paganisme to disobey him, blasphemy against the holy Ghost, to do, or speake against his Decrees or Canons; and that which is most horrible, you made it presumption not to go to the Devill after him without grudging. O shamefull and sinfull subiection, such as Lucifer himselfe never offered the bond-slaves of hell. Bishop Bilson in his true difference of christian subiection and unchristian rebellion 2. part. pag. 230.

my juſt Judges, in the preſence of a moſt juſt God, for a juſt judgement, as a juſt man ſhould do, both for my ſelfe and for my adverſaries. Firſt for my adverſaries, if their Cauſe be better then mine, and they can confute what I have ſaid: and if they cannot, then for my ſelfe. and for both ſpeedily without all further delay, without all further procraſtination; for it hath been full twelve years three quarters, ſince this action firſt began in this Court; full twelve years three quarters, before I could get this firſt hearing, this one Argument. A long and a tedious time, in which divers intereſſed in this controverſie have ended their lives: and as *Julian* the Emperour, though an Apoſtata ſaies. φοβερὸν καὶ δεινὸν τὸ δικαίου κατὰ δίκην κεκριμένον, καὶ ἀποπνίγεται τὴν ψυχὴν ἀπολλύς. It is a fearful terrible thing, that he that ſues for juſtice, ſhall ſooner lay down his life at the judgement ſeat, then procure judgement from the juſt Judges that ſit upon the ſeat: that he ſhall ſtand in need of two lives to determine one controverſie, and yet end them both, before he can end that his one controverſie.

Epiſto. a 35.

What a blemiſh and diſgrace is it, that the juſtice of private men, ſhall exceed and ſurpaſſe the juſtice of Judges, and of Courts of juſtice? and if private men do all that ever they can to have their Cauſes heard, and determined; and Judges do all that ever they can, to delay, procraſtinate, and ſlave off the hearing and determining of them; doth not the juſtice of private men exceed and ſurmount the juſtice of judges, and of Courts of juſtice?

And yet the juſtice of private men is but the private and particular juſtice of the Kingdome; and if there be any queſtion concerning that, it muſt paſſe *per libram per trutinam, ſub examine juſtitiæ judicum & Curiarum.* And therefore the juſtice of Iudges and of Courts of juſtice, is the generall univerſall, æcumenicall epidemicall juſtice of the Kingdom. The light of the body ſaith our Saviour is the eye; if that light be darkneſſe, how great is that darkneſſe? So the generall univerſall, æcumenicall, epidemicall juſtice of the Kingdome, is the juſtice of Iudges, and of Courts of juſtice. If that juſtice be injuſtice, how great is that injuſtice? It is then the generall univerſall, æcumenicall, epidemicall plague peſtilence, conſumption, deſolation, and deſtruction of the whole Kingdome.

And though, my Lord the difficulty to get juſtice, and the danger to loſe it, is alwaies very great; becauſe there are ſo many things needfull, even in an honeſt courſe to prevaile in a ſute at Law,

Law, as a good and a just cause, a diligent, faithfull, and expert Solicitor, an honest, skilfull, and incorrupt Attourney, a learned, faithfull and couragious Counsell, and a just and an upright Iudge; of which if any one faile to do his duty, a good cause may have an ill successe: Yet certainly amongst all the former, next after a a good Cause, a just and an upright Iudge is the principall and especiall. And because even in a good Cause, the three former cannot prevaile without this latter, and this latter can and may correct and amend the faults and errors of the three former; therefore *Iulian* the Emperour makes this latter the only necessary thing, to prevaile in a good Cause. His words are worthy to be ingraven in letters of gold, on every Court of justice, for a direction and caution to all Iudges, Counsellours, Atturnyes, Solicitours, and Clients.

τοῦτο μόνον λείπεται τοῖς ἀδικουμένοις εἰς τὸ σωθῆναι, τὸ τυχεῖν δικαστοῦ κρίνειν τε ἐθέλοντος καὶ δυναμένου καλῶς. ὁπότερον γὰρ ἂν ἀπεστέρων, ἐξαπατηθέντος ἢ κατασκοποῦντος αὐτοῦ, τὸ δίκαιον ὄρχεσθαι πάντως ἀνάγκη; This is the only thing, saith he, for them that suffer wrong, to get their right namely, to get such a judge as both can and will judge rightly, can and will do justice. If the Iudge either cannot, or will not, if either through weaknesse he cannot apprehend the truth, or else through wickednesse will not heare, or will betray the truth; there is then a necessity, that right and justice must be subverted.

Epistola præallegata.

Wherefore my Honoured Lord Chiefe Iustice, and Honoured Iudges; to the intent that your Lordship and the Court may shew your selves such Iudges, as men oppressed according to *Iulians* advise, should seeke for; such Iudges as both can and will judge rightly, can and will do Iustice; such Iudges as both can and will rectifie and reforme the faults and errors of Solicitours, Atturneys, and Counsellors; nay such Iudges; as in a good cause will supply the want of all these, which is my case for I can get none of them. Consider I beseech you, by how many bonds you are tyed to do justice; you tied by your places, titles, offices, oathes, by the Lawes of the Land by the Word of God; and in these two particular cases of mine, in this action of false imprisonment, and in the speciall Verdict betweene *Allen*, and *Nash*, by his Majesties speciall mandate deliver'd to your Lordship with mine own hand here in open Court, on the first day of *Hilary* Tearme, 1635.

All these binde you to do justice, but none of these prove you to be just. The only rule to prove you just, is this of St. *John* 1 *Epist.* 3. *cap.* 7. *vers. He that doth righteousnesse, is righteous.* The works

 of

of justice, & not the titles of justice must prove you just without these works, you may be call'd Iustices; but it is κατάχρησις abusive, ἀντιφρασις & antiphrasis est vox signans contraria dicto; and then you have no better right to be call'd Iustices, than the Lords supper hath to be call'd *missa*, and *missa* signifies the Lords supper, just as excommunication doth the Communion, as Bishop *Bilson* shewes; for *missa* is a sending away from the Lords Supper, as excommunication is from the Communion.

Or if you have any better right to be called Iustices, yet without the works of justice, it is only *ratione officii*, not *ratione meriti*; and in that sence, as the Papists say, if *Iudas* or *Simon Magus* were Popes, they had right to, and might be honoured with the title of holinesse. And in this respect, as *Gerson* saies, *absque mendacio Papa nequissimus dici potest Sanctissimus*, and in that regard, any of the lapsed Angels, even *Belzebub* himselfe, the prince of devills, in regard of originall purity, and Gods law written in him in the Creation, which *ex officio* is ever bound to observe, may be call'd *Angelus Sanctissimus*; although in respect of his workes, now and ever since his fall, he be *spiritus impurissimus & diabolus nequissimus*.

But if you will be truly called Iustices, both *ratione officii, & ratione meriti*, then you must do the works of justice; you must do *justa juste*, that is, as *Aristotle* expounds himselfe, you must doe justice *volenter, scienter, constanter*, willingly without any backwardnesse; wittingly by hearing sifting, and searching the allegations and proofes alwaies on both sides; and constantly without any intermission or deviation. Or if you had rather have the rule from *Solomon*; you must do justice joyfully. It is joy, saith *Solomon*, to the just to do judgement, *Prov.* 21.15. And this one word of *Solomon*, includes the three former of *Aristotle*. For if it be joy to the just to do judgement, then he will do it willingly, wittingly, and constantly; or if you please, take the rule out of your own Lawes, out of the common Lawes of the Land, out of the epitome an principall part thereof *magna Charta, cap.* 29. you shall deny to no man, you shall delay to no man, you shall sell to no man justice, or right; you shall deny to no man, you shall delay to no man justice or right; therefore you shall do to every man justice and right speedily; you shall sell to no man justice or right; therefore you shall do to every man justice and right freely: and joyne all these together, and then you have the absolute and com-

compleat rule of justice: The observation whereof will make you all, not only Iustices, but also chiefe Iustices; if not *ratione loci, tituli, & officii*, which is the inferiour; yet *ratione aperis & meriti*, which is the superiour; and will make *summe cuique*, which is *anima, vigor, & executio legis*, take place in every cause that comes before you: wherein next after the service and worship of God, and the exercise of the true Orthodox Religion, consists the welfare and flourishing estate, both of Church and Common-wealth.

And this my Lord, will be the best, if not the only course, to vindicate the credit of this your Court, and to confute that opprobrious distinction of Court Christian, and not Christian; whereby the name of Court Christian is appropriated only to the Ecclesiasticall Courts, and all Temporal Courts reputed Ethnick or heathenish, but both very erroneously. For it is the doing of justice, that makes Courts Christian and the omitting or neglect of justice, much more the doing of injustice, that makes Courts Ethnick or Heathenish, as the Apostle shewes in his 1. Epistle to the *Corinths* 6. chapter, 1. vers. *Dare any of you having a matter against another, be judged under the unjust, and not under the Saints?* which Apostolicall Dichotomy, if it be rightly made; and the members thereof truly opposite; then they which are unjust, cannot be Saints or Christians; and they which are Saints or Christians, cannot be unjust. And to make the matter more cleare, those whom the Apostle in the first verse calls ἀδίκων unjust, those in the 6. verse, he calls ἀπίστων unbeleevers or infidells. And those whom the Apostle calls ἁγίοις Saints or Christians, Saint *John* calls doers of righteousnes; *If you know that Christ is righteous know ye, that every one that doth righteousnesse is borne of him*, in his first Epistle, 2. chap. 29. verse. and in his 3. chap. 7. verse, he calls them both righteous, and doers of righteousnesse. He that doth righteousnesse, is righteous, even as Christ is righteous. And therefore, my Lord, that Court which doth justice, is a Court Christian, and that Court which doth not do justice, is a Court not Christian. If the Ecclesiasticall Court doth justice more cheerefully, readily, and freely, than the Temporall Court, then the Ecclesiasticall Court is more Christian; if the temporall Court doth justice more cheerefully, readily, and freely, than the Ecclesiasticall Court, then the temporall Court is more Christian; if they both do justice, as they both should do, then both are Christian, if neither do justice, then neither is Christian. Or if both Ecclesiasticall and Temporall Judges, will have themselves, and their

Courts

Courts reputed christian, though they do not do justice; yet they must be content to be ranked among those christians, who professe they know God, but by their works deny him. *Tit.* 1. 16. or among those, who have indeed a shew, or forme of godlinesse, but have denied the power thereof. 2. *Tim.* 3. 5.

Wherefore my honoured Lord Chiefe Iustice, and my honoured Iudges, to the intent that you may shew your selves and this your Court truly Christian; I do most humbly and most heartily beseech your Lordship, and these my honoured Iudges, to observe the former excellent rules of justice, both in this case of mine, now after full twelve years three quarters, and in all other mens cases at the first, as you will answer the contrary before the dreadfull tribunall of God himselfe: whose deputies you are, whose names you beare, whose oath you have taken, whose worke you are here to do, and in whose presence and judgement, as you now sit to judge others, so you shall hereafter stand to be judged your selves; and that χωρὶς προκρίματος, χωρὶς προκλίσιος, without prejudice, without partiality: *ubi plus valebunt pura corda quam astuta verba: & conscientia bona, quam marsupia plena.*

Dixi.

Στῆθι ἐδραῖος, ὡς ἄκμων τυπτόμενος.
μεγάλου ἐστὶν ἀθλητοῦ δέρεσθαι καὶ νικᾶν.
Ignatius Epist. ad Polycarpum.

FINIS.

Errata.

Faults in ſome Copies, and their Corrections. P. and the firſt number ſhews the Page. L. and the ſecond number the line. M. the Margine. E. ſignifies expunge. F. for. R. read. W. wants.

TItle Pag. line 34. reade by, for be. p. 1. l. 24. r. Diem. p. 2. l. 1. r. it f. I. p. 3. l 27. w. the. p. 6. l. 8. r. certifie. l. 22. w. the. l. 33. r. deſiſting. l. 35. w. corpus. l. 38. r. nay, f. may. P. 7. l. 16. r. impartially. p. 9. l. 5. r. decide. l. 11. r. duety. l. 23. r. gnaviter. l. 24. r. confitenti. p. 12. l. 8. r. cogniſance. p. 17. l. 32. r. expreſly. p. 19. l. 17. r. aſticall. p. 20. l. 7. r. provinciall l. 8. r. presbyteri. l, 12, r, mandato. p, 22, l, 11, r, this f, his. l, 32, r, ſpeciall. p. 24, l, 14, r, the f, thy. l, 32, r, provinciall· p, 29, l, 25, w, no. p, 30, l, 40, r, his f, the. p, 31, l, 3, marg. w the. p, 34, l, 17, w. according. p, 38, l, 30, w, the. p, 40, l, 25, r, of, f. or. p. 42, l, 28, mar, read ἀκίνης, l, 45, mar, r, conſenſio. p, 43, l, 17, r, gloſſe. p, 47, l, 9, r, igitur. p, 51, l, 18, mar, r. Enthymems. p, 55, l, 8, r, whoſoever. p, 56, l, 40, r, ſoliciti. Item p, 57, l. 1, and l, 12. p, 59, l, 28, r, proponere. p, 64, l, 22, r, ſolicite. p, 68, l, 6, m, E, &, l, 36, m, r, marginall. p, 69, l, 3. r, lawfull. l, 37, r imply p, 79, l, 1, r, Archdeacons. p, 82, l, 27, E, to. l, 35, r, this, f, his. p, 86, l, 29, r, not only againſt the King himſelfe, but alſo againſt God himſelfe. p, 87, l, 15, r, giſt, f, right. p, 90, l, 38, r, non. p, 93, l, 10, r, oculi.